2142.

SUPREME COURT OF THE UNITED STATES.

No. 123.

JOHN DEN, EX DEM. ARCHIBALD RUSSELL, PLAINTIFF IN ERROR,

VS.

THE ASSOCIATES OF THE JERSEY COMPANY.

IN ERROR TO THE CIRCUIT COURT, U. S., FOR THE DISTRICT OF NEW JERSEY.

INDEX.

	Original.	Print.
Writ of error	2	1
Citation and service	4	2
Declaration	6	3
Issue joined	7	4
Judgment	8	5
Judgment record	9	5
Clerk's certificate	12	7
Bill of exceptions	13	8
Map, marked A	46	23
Duke of York's release	47	23
Petition of Cornelius Van Vorst	62	31
Surrender from proprietors, &c. Appendix, No. 1	63	32
Deed from Van Vorst to Dey. Appendix No. 2	74	38
Deed from Varick, Radcliff, and Dey, to Associates of Jersey Co. Appendix No. 3	79	41
Act to incorporate Associates of Jersey Company. Appendix No. 4	86	45
Bond to prosecute writ of error	94	51
Assignment of error	95	51
Joinder in error	96	52

GIDEON, print.

UNITED STATES OF AMERICA, *ss.*

To the Associates of the Jersey Company.

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the third circuit court of the United States, for the district of New Jersey, wherein John Den, ex dem. Archibald Russell, is plaintiff, and you are defendants in error, to show cause, if any there be, why the judgment in the writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, the ninth day of October, in the year of our Lord one thousand eight hundred and forty-nine.

PHILEMON DICKERSON,
One of the judges of the circuit [court] of the United States.
in and for the New Jersey district.

UNITED STATES SUPREME COURT.

JOHN DEN, ex dem. Archibald Russell,
vs.
THE ASSOCIATES of the Jersey Company.
} Citation on writ of error.

Returnable first Monday of December, 1849.

I do hereby acknowledge the service of this writ on the Associates of the Jersey Company, the defendants in error.

ROBERT GILCHRIST, Jr.,
Att'y for the defendants.

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America, to the judges of the circuit court of the United States, for the third circuit, New Jersey district, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said circuit court before you, or some of you, between John Den, a citizen of the State of New York, plaintiff, and the Associates of the Jersey Company, citizens of the State of New Jersey, defendants, a manifest error hath happened to the great damage [of] the said plaintiff, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that *them* under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, at the city of Washington, in the District of Columbia, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the law and custom of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this eighth day of October, in the year one thousand eight hundred and forty-nine, and of the independence of the United States the seventy-third.

E. N. DICKENSON,
Clerk of the circuit court of the United States,
for the third circuit, New Jersey district.

The answer of the honorable Robert C. Grier and Philemon Dickerson, judges of the circuit court of the United States, for the third circuit, New Jersey district, to the within writ, containing the citation, record, and proceedings in the within cause, as appears by the schedule annexed.

Attest: E. N. DICKERSON, *Clerk.*

By the honorable R. C. GRIER,
One of the judges of the circuit court of the United States,
for the third circuit, New Jersey district,
to the Associates of the Jersey Company.

Whereas John Den lately issued out of the circuit court of the United States, for the third circuit, of New Jersey district, a writ of error directed to the judge of the circuit court of the United States, for the third circuit, New Jersey district, stating that, in the record and proceedings, as also in the rendition of the judgment of a plea in the said court, before the judge thereof, between John Den, plaintiff, and *and* the Associates of the Jersey Company, defendants, a manifest error hath happened to the great damage of the said plaintiff.

And whereas, for the correction of that error in due manner, the said writ has been issued, returnable at the next stated Supreme Court of the United States, to be held at the city of Washington, on the first Monday of December next; you are therefore hereby cited to appear before the said Supreme Court [at] the city on Washington, on the said first Monday of December, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of Trenton, in the third circuit, New Jersey district, on the ninth day of October, in the year of our Lord one thousand eight hundred and forty-nine, and of the independence of the United States the seventy-third.

ROBERT C. GRIER,
Circuit judge for the district of New Jersey.

Due service of the above citation admitted.

ISAAC W. SCUDDER,
Attorney for the associates of the Jersey company.

2144.

UNITED STATES OF AMERICA,
The third circuit, New Jersey district.

I, Edward N. Dickerson, clerk of the circuit court of the United States of America, for the third circuit, New Jersey district, do hereby certify, that the writings annexed to this certificate are true copies of their respective originals, on file and remaining on record in my office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of Trenton, in the third circuit, New Jersey district, this ninth day of October, in the year of our Lord one thousand eight hundred and forty-nine, and of the independence of the United States the seventy-third.

[SEAL.]

CIRCUIT COURT OF THE UNITED STATES,
For the third circuit, New Jersey district.

Pleas before the judges of the circuit court of the United States, for the third circuit, New Jersey district, held at the State house, in the city of Trenton, on the first Monday of January, in the year of our Lord one thousand eight hundred and forty-nine.

Roger B. Taney, chief justice.

DISTRICT OF NEW JERSEY, *ss.*

John Den, a citizen of the State of New York, puts in his place James M. Chapman, his attorney, against the Associates of the Jersey Company, citizens of the State of New Jersey, in a plea of trespass and ejectment.

DISTRICT OF NEW JERSEY, *ss.*

The Associates of the Jersey Company, citizens of the State of New Jersey, put in their place Isaac W. Scudder, their attorney, at the suit of John Den, a citizen of the State of New York, in the plea aforesaid.

DISTRICT OF NEW JERSEY, *ss.*

Be it remembered, that on the first Monday in January, in the year of our Lord one thousand eight hundred and forty-nine, of the term of September, in the year of our Lord one thousand eight hundred and forty-eight, comes John Den, a citizen of the State of New York, plaintiff, before the judges of [the] circuit court of the United States, for the third circuit, New Jersey district, at the State house of the city of Trenton, by James M. Chapman, his attorney, and brings into court, before the aforesaid justices thereof now here, his certain bill against the Associates of the Jersey Company, defendants, citizens of the State of New Jersey, being in the custody and of a plea of trespass and ejectment, as follows, to wit:

DISTRICT OF NEW JERSEY, *ss.*

John Den, a citizen of the State of New York, by James M. Chapman, his attorney, complains of the Associates of the Jersey Company, citizens of the State of New Jersey, in the custody of the marshal of the district of New Jersey, for this, to wit: That whereas Archibald Russel, a citizen of the State of New York, the twenty-eighth day of December, in the year of our Lord one thousand eight hundred and forty-eight, at Jersey City, in the county of Hudson, and district of New Jersey, had demised, set, and to farm let, to the above John Den, twelve messuages, lots, pieces, or parcels of land, reclaimed from the water, one hundred acres of arable land, one hundred acres of pasture land, one hundred acres of meadow land, one hundred acres of land covered with water, one hundred acres of other land, with the appurtenances, situate, lying, and being in Jersey City, in the county and district aforesaid, of the value of three thousand dollars, now or late in the tenure or occupation of the Associates of the Jersey Company, citizens of the State of New Jersey; to have and to hold the said premises, messuages, and land, with the appurtenances, unto the said John Den and his assigns, from the twenty-seventh day of December, in the year last aforesaid, for, during, and until the full end and term of fourteen years thence next ensuing, and fully to be completed and ended; by virtue of which demise the said John Den entered into the whole of the said premises, messuages, and lands, with the appurtenances, and was thereof possessed, until the said the Associates of the Jersey Company afterwards, to wit, on the thirtieth day of December, in the year last aforesaid, with force and arms, entered into the said premises, messuages, and lands, with the appurtenances, in and upon the possession of the said John Den, and ejected, drove out, and removed the said John Den from the whole of the said premises, messuages, and lands so demised to him, as aforesaid, his said term not being yet ended, and kept out, and still keeps out, the said John Den, so ejected, drove out, and removed, as aforesaid, from the said possession, and then did other injuries to the said John Den, against the peace of the United States and the district aforesaid, and to the damage of the said John Den of three thousand dollars; and therefore he brings suit, &c.

And now, on this day, to wit, on the first Monday of February, in the year aforesaid, before the judges aforesaid, until, &c., the said defendants in this said suit, by Isaac W. Scudder, their attorney, come and defend force and injury, when, &c., and they say, that they are not guilty of the trespass and ejectment above laid to their charge, in manner and form as the said John Den, a citizen of the State of New York, hath above thereof complained against them, and of this they put themselves upon the country, &c., and the said John Den doth so likewise.

Therefore, to try the issue above joined, let a jury thereupon come, before the judges aforesaid, at the State house in the city of Trenton, on the fourth Tuesday of March next, twelve, &c., each of whom, &c., and who neither, &c., to recognise, &c., because as well, &c.; and the same day is given to the parties aforesaid at the same place.

And now, at this day, that is to say, on this fourth Tuesday of March, in the year one thousand eight hundred and forty-nine, before the judges aforesaid, at the place aforesaid, came the parties aforesaid, by their attorneys aforesaid; but because the said issue so as above joined was not tried at the term held at the time and place last aforesaid thereupon the process between the parties aforesaid, is continued to the term to be held at the State house aforesaid, on the fourth Tuesday of September in the year last aforesaid.

And now, at this day, to wit, on the fourth Tuesday of September, in the year of our Lord one thousand eight hundred and forty-nine, at the State house in the city of Trenton, before the judges aforesaid, came as well the above named plaintiff as the above named defendant, by their respective attorneys above mentioned, and the jurors of the jury summoned to try the said issue being called also came, who to speak the truth of the matters above contained being chosen, tried, and sworn, say upon their oath that the said defendants are not guilty in manner and form as the said plaintiff hath above thereof complained against them, and they assess their costs and damages to six cents; whereupon, all and singular the premises being seen and by the said court now here fully understood, and mature deliberation being thereupon had, it is considered that the said plaintiff take nothing by his said bill, but that he be in mercy, &c., and that the said defendants go without day, &c.

Judgment signed this ninth day of October, 1849.

R. C. GRIER.

CIRCUIT COURT OF THE UNITED STATES,
For the third circuit, New Jersey district.

Pleas before the judges of the circuit court of the United States, for the third circuit, New Jersey district, held at the State house, in the city of Trenton, on the first Monday of January, in the year of our Lord one thousand eight hundred and forty-nine.

ROGER B. TANEY, *Chief Justice*,
EDWARD N. DICKERSON, *Clerk*.

DISTRICT OF NEW JERSEY, *ss.*

John Den, a citizen of the State of New York, puts in his place James M. Chapman, his attorney, against the Associates of the Jersey Company, citizens of the State of New Jersey, in a plea of trespass and ejectment

DISTRICT OF NEW JERSEY, *ss.*

The Associates of the Jersey Company, citizens of the State of New Jersey, put in their place Isaac W. Scudder, their attorney, at the suit of John Den, a citizen of the State of New York, in the plea aforesaid.

DISTRICT OF NEW JERSEY, *ss.*

Be it remembered, that on the first Monday in January, in the year of our Lord one thousand eight hundred and forty-nine, of the term of September, in the year of our Lord one thousand eight hundred and forty-eight, comes John Den, a citizen of the State of New York, plaintiff, before the judges of the circuit court of the United States, for the third circuit, New Jersey district, at the State house of the city of Trenton, by James M. Chapman, his attorney, and brings into court, before the aforesaid justices thereof now here, his certain bill against the Associates of the Jersey Company, defendants, citizens of the State of New Jersey, being in the custody of a plea of trespass and ejectment, as follows, to wit:

District of New Jersey, *ss.*

John Den, a citizen of the State of N. York, by Jas. M. Chapman, his attorney, complains of the Associates of the Jersey Company, citizens of the State of N. Jersey, in the custody of the marshal of the district of N. Jersey, for this, to wit: That whereas Archibald Russell, a citizen of the State of N. York, the 28th day of December, in the year of our Lord one thousand eight hundred and forty-eight, at Jersey City, in the county of Hudson, and district of New Jersey, had demised, set, and to farm let, to the above John Den, twelve messuages, lots, pieces, or parcels of land, reclaimed from the water; one hundred acres of arable land, one hundred acres of pasture land, one hundred acres of meadow land, one hundred acres of land covered with water, [and] one hundred acres of other land, with the appurtenances, situated, lying, and being in Jersey City, in the county and district aforesaid, of the value of three thousand dollars, now or late in the tenure or occupation of the Associates of the Jersey Company, citizens of the State of New Jersey, to have and to hold the said premises, messuages, and lands, with the appurtenances, unto the said John Den and his assigns, from the twenty-seventh day of December, in the year last aforesaid, for, during, and until the full end and term of fourteen years, thence next ensuing, and fully to be completed and ended. By virtue of which demise the said John Den entered into the whole of the said premises, messuages, and lands, with the appurtenances, and was thereof possessed until the said Associates of the Jersey Company, afterwards, to wit, on the thirtieth day of December, in the year last aforesaid, with force and arms, &c., entered into the said premises, messuages, and lands, with the appurtenances, in and upon the possession of the said John Den, and ejected, drove out, and removed the said John Den from the whole of the said premises, messuages, and lands, so demised to him as aforesaid, his said term not being yet ended; and kept out, and still keeps out, the said John Den, so ejected, drove out, and removed as aforesaid from his said possession; and then did other injuries to the said John Den, against the peace of the United States and the district aforesaid, and to the damages of the said John Den of three thousand dollars; and therefore he brings suit, &c.

And now on this day, to wit, on the first Monday of February, in the year aforesaid, before the judges aforesaid, (until, &c.,) the said defendants in this suit, by Isaac W. Scudder, their attorney, came and defend the force and injury, when, &c., and say that they are not guilty of the trespass and ejectment above laid to their charge, in manner and form as the said John Den, a citizen of the State of New York, hath above thereof complained against them; and of this they put themselves upon the country, &c., and the said John Den doth so likewise.

Therefore, to try the issue above joined, let a jury thereupon come before the judges aforesaid, at the State-house, in the city of Trenton, on the fourth Tuesday of March next, twelve, &c., each of whom, &c., and who neither, &c., to recognise, &c., because as well, &c.; and the same day is given to the parties aforesaid at the same place.

And now at this day, that is to say, on this fourth Tuesday of March, in the year one thousand eight hundred and forty-nine, before the judges aforesaid, at the place aforesaid, came the parties aforesaid, by their attorneys aforesaid; but because the said issue, so as above joined, was not tried at the term held at the time and place last aforesaid, therefore the process between the parties aforesaid is continued until the term to be held at the State-house aforesaid, on the fourth Tuesday of September, in the year last aforesaid.

And now at this day, to wit, on the fourth Tuesday of September, in the year of our Lord one thousand eight hundred and forty-nine, at the State-house in the city of Trenton, before the judges aforesaid, came as well the above named plaintiff as the above named defendants, by their respective attorneys above mentioned; and the jurors of the jury summoned to try the said issue being called, also came, who, to speak the truth of the matters above contained being chosen, tried, and sworn, say, upon their oath, that the said defendants are not guilty in manner and form as the said plaintiff hath above thereof complained against them, and they assess their costs and charges to six cents.

Whereupon, all and singular the premises being seen, and by the said court now here fully understood, and mature deliberation being thereupon had, it is considered that the said plaintiff take nothing by his said bill, but that he be in mercy, &c., and that the said defendants go without day, &c.

Judgment signed this ninth day of October, 1849.

ROBERT C. GRIER.

UNITED STATES OF AMERICA,
District of New Jersey, ss.

I, Edward N. Dickerson, clerk of the United States circuit court, in and for the district [of] New Jersey, do hereby certify, that the foregoing is a true copy of a judgment of record in said court, wherein John Den, ex dem. Archibald Russell, was plaintiff, and the Associates of the Jersey Company were defendants, as the same remains on record in my office.

In witness whereof I have hereunto subscribed my name, and affixed the seal of said court, the thirtieth day of November, in the year of our Lord one thousand eight hundred and fifty-two.

[L. S.]

EDW'D N. DICKERSON.

CIRCUIT COURT OF THE UNITED STATES,
For the third circuit, New Jersey district.

JOHN DEN, EX DEM. ARCHIBALD RUSSELL,
vs. } In ejectment.
THE ASSOCIATES OF THE JERSEY COMPANY.

Which said issue in manner aforesaid joined between the said parties, afterwards, at the circuit court of the United States, for the third circuit, New Jersey district, held at Trenton, in the said district, before the honorable Robert C. Grier, one of the judges of the said court, on the eighth day of October, in the year 1849, came on to be tried; at which day before the said judge came as well the said plaintiff as the said defendants, by their respective attorneys aforesaid, and the jurors of the jury whereof mention is within made, being called, likewise come, and were sworn to try the issue in manner aforesaid joined.

And thereupon to maintain the said issue on his part, the counsel for the said plaintiff read in evidence the following deeds and papers:

I. Charles the Second, by the Grace of God, King of England, Scotland, France, and Ireland, defender of faith, &c.,

To all to whom these presents shall come, greeting:

Know ye, that we, for divers good causes and considerations us thereunto moving, have of our especial grace, certain knowledge, and meer motion, given and granted, and by these presents, for us, our heirs, and successors, do give and grant, unto our dearest brother, James, Duke of York, his heirs and assigns, all that part of the main land of New England, beginning at a certain place called or known by the name of St. Croix, next adjoining to New Scotland, in America; and from thence extending along the seacoast unto a certain place, called Petauquine or Pemaquid, and so up the river thereof, to the farthest head of the same, as it tendeth northward; and extending from thence to the river Kenebeque, and so upwards by the shortest course to the river of Canada northward. And also all the island or islands, commonly called by the several name or names of Matowacks, or Long Island, situate, lying, and being towards the west of Cape Codd, and the narrow Higansettis, abutting upon the main land, between the two rivers there called or known by the several names of Conecticut or Hudson's river, together, also, with the said river, called Hudson's river, and all the lands from the west side of Conecticut, to the east side of Delaware bay. And also all those several islands called or known by the names of Mart*in's* Vineyard and Nantuckets, or otherwise Nantuckett, together with all the lands, islands, soiles, rivers, harbors, mines, minerals, quarries, woods, marshes, waters, lakes, fishings, hawkings, huntings, and fowling; and all other royalty's profits, commodities, and hereditaments, to said several islands, lands, and premises belonging and appertaining, with their and every of their appurtenances, and all our estate, right, title, interest, benefit, advantage, claim, and demand, of, in or to the said lands and premises, or any part or parcel thereof; and the reversion and reversions, remainder and remainders, together with the yearly and other the rents, revenues, and profits of all and singular the said premises, and of every part and parcel thereof; to have and to hold all and singular the said lands, islands, hereditaments, and premises, with their and every of their appurtenances, hereby given and granted, or herein before mentioned to be given and granted, unto our dearest brother, James, Duke of York, his heirs and assigns forever, [to the only proper use and behoof of the said James,] Duke of York, and his heirs and assigns forever; to be holden of us, our heirs and successors, as of our manor of East Greenwich, in our county of Kent, in free and common soccage, and not in capitie, nor by knight service, yielding and rendering. And the said James, Duke of York, doth for himself, his heirs and assigns, covenant and promise to yield and render, unto our heirs and successors, of and for the same, yearly and every year, forty beaver skins, when they shall be demanded, or within ninety days after. And we do further, of our special grace, certain knowledge, and meer motion, for us, our heirs and successors, give and grant unto our said dearest brother, James, Duke of York, his heirs, deputies, agents, commissioners, and assigns, by these presents, full and absolute power and authority to correct, punish, pardon, govern, and rule, all such subjects of us, our heirs and successors, as shall from time to time adventure themselves into any the parts or places aforesaid, or that shall or do at any time hereafter inhabit within the same, according to such laws, orders, ordinances, directions, and instruments, as by our said dearest brother, or his assigns, shall be established; and in defect thereof, in case of necessity, according to good directions of his deputies, commissioners, officers, or assigns, respectively, as well in all causes and matters capital and criminal, as civil, both marine and others; so always as the said statutes, ordinances, and proceedings be not contrary to, but as near as conveniently may be agreeable to, the laws, statutes, and government of this our realm of England; and saving and reserving to us, our heirs and successors, the receiving, hearing, and determining of the appeal and appeals of all or any person or persons of, in, or belonging to, the territories or islands aforesaid, in, or touching any judgment or sentence to be there made or given. And further, that it shall and may be lawful to and for our said dearest brother, his heirs and assigns, by these presents, from time to time, to nominate, make, constitute, ordain, and confirm, by such name or names, style or styles, as to him or them shall seem good; and likewise to revoke, discharge, change, and alter, as well all and singular governors, officers, and ministers, which hereafter shall be by him or them thought fit and needful to be made or used within the aforesaid parts and islands; and also to make, ordain, and establish all manner of orders, laws, directions, instructions, forms, and ceremonies of government and magistracy fit and necessary for and concerning the government of the territories and islands aforesaid, so always that the same be not contrary to the laws and statutes of this our realm of

England, but as near as may be agreeable thereunto; and the same at all times hereafter to put in execution or abrogate, revoke or change, not only within the precincts of the said territories or islands, but also upon the seas, in going and coming to and from the same, as he or they in their good discretion shall think to be fittest for the good of the adventurers and inhabitants there. And we do further of our own special grace, certain knowledge, and meer motion, grant, ordain, and declare, that such governors, officers, and ministers, as from time to time shall be authorized and appointed, in manner and form aforesaid, shall and may have full power and authority to use and exercise martial law in cases of rebellion, insurrection, and mutiny, in as large and ample manner as our lieutenants in our counties within our realm of England have, or ought to have, by force of their commission of lieutenancy, or any law or statute of this our realm. And we do further, by these presents, for us, our heirs and successors, grant unto our said dearest brother, James, Duke of York, his heirs and assigns, that it shall and may be lawful to and for the said James, Duke of York, his heirs and assigns, in his or their discretion, from time to time, to admit such and so many person or persons to trade and traffique unto and within the said territories and islands aforesaid, and into every or any part and parcel thereof; and to have, possess, and enjoy any lands or hereditaments in the parts and places aforesaid, as they shall think fit, according to the laws, orders, constitutions, and ordinances, by our said brother, his heirs, deputies, commissioners, and assigns, from time to time to be made and established by virtue of, and according to, the true interest and meaning of these presents, and under such conditions, preservations, and agreements, as our said brother, his heirs or assigns, shall set down, order, direct, and appoint, and not otherwise, as aforesaid.

And we do further, of our especial grace, certain knowledge, and meer motion, for us, our heirs and successors, give and grant unto our said dearest brother, his heirs and assigns, by these presents, that it shall and may be lawful to and for him, them, or any of them, at all and every time and time, hereafter, out of any our realms or dominions, whatsoever, to take, lead, carry, and transport in and into their voyages, and for and towards the plantations of our said territories and islands, all such and so many of our loving subjects, or any other strangers, being not prohibited or under restraint, that will become our loving subjects, and live under our allegiance, as shall willingly accompany them in the said voyages; together with all such clothing, implements, furniture, and other things usually transported and not prohibited, as shall be necessary, from the inhabitants of the said islands and territories, and for their use and defence thereof, and managing and carrying on the trade with the people there; and in passing and returning to and fro, yielding and paying to us, our heirs and successors, the costoms and duties due and payable according to the laws and costoms of this our realm. And we do also for us, our heirs, and successors, grant to our said dearest brother, James, Duke of York, his heirs and assigns, and to all and every such governor or governors, or other officers or ministers, as by our said brother, his heirs or assigns, shall be appointed to have power and authority of government and command in or over the inhabitants of the said territories or islands, that they and every of them, shall and lawfully may, from time to time and at all times hereafter forever, for their several defence and safety, encounter, expulse, repel, and resist, by force of arms, as well by sea as by land, and all ways means whatsoever, all such person and persons, as without the special license of our said dearest brother, his heirs, or assigns, shall attempt to inhabit within the several precincts and limits of our said territories and islands; and also all and every such person and persons whatsoever, shall enterprize or attempt, at any time hereafter, the destruction, invasion, detriment, or annoyance to the parts, places, or islands aforesaid, or any part thereof. And lastly, our will and pleasure is, and we do hereby declare and grant, that these our letters patents, or the inrollment thereof, shall be good and effectual in the law, to all intents and purposes whatsoever, notwithstanding the not reciting or mentioning of the premises, or any part thereof, or the meets or bounds thereof; or of any former or other letters patents or grants heretofore made or granted of the premises, or of any part thereof, by us or of any of our progenitors, unto any other person or persons whatsoever, bodies politick or corporate, or any act, law, or other restraint, incertainty or imperfection whatsoever, to the contrary in any wise notwithstanding; although express mention of the true yearly value or certainty of the premises, or any of them, or of any other gifts or grants by us, or by any of our progenitors or predecessors, heretofore made to the said James, Duke of York, in these presents is not made; or any statute, act, ordinance, provision, proclamation or restriction, heretofore had, made, enacted, ordained, or provided, or any other matter, cause, or thing whatsoever, in the contrary thereof in any wise notwithstanding.

In witness whereof we have caused these our letters to be made patent. Witness our self, at Westminister, the twelfth day of March, in the sixteenth year of our reign.

By the King: HOWARD.

II. James, Duke of York, afterwards, to wit, on the twenty-third day of June, in the year of our Lord one thousand six hundred and sixty-four, by a certain indenture made between him, the said James, Duke of York, of the one part, and John, Lord Berkley, and Sir George Carteret, leased all that tract of land adjacent to New England, lying and being to the westward of Lond island and Manhitas island, and bounded on the east part by the main sea, and part by Hudson's river, having upon the west Delaware bay or river, and extending southward to the main ocean as far as cape May, at the mouth of Delaware bay, and to the northward as far as the northernmost branch of the said bay or river of Delaware, which is forty-one degrees and forty minutes of latitude, and crossing over thence in a straight line to Hudson's river, in forty-one degrees of latitude; which said tract of land, so as aforesaid demised, was by the terms of the said indenture thereafter to be called New Cæsarea, or New Jersey, and was a portion and part of the said tract of land so as aforesaid granted by the said Charles the second to the said James, Duke of York; and of which said tract so as aforesaid demised, the *the* tenements aforesaid with the appurtenances in the declaration aforesaid mentioned are parcel. To have and to hold to the said John, Lord Berkley, and Sir George Carteret from the day next before the date of the said indenture, for one whole year thence next ensuing. By virtue whereof the said John, Lord Berkeley, and Sir George Carteret into the tenement, so as aforesaid demised, with the appurtenances, entered and were possessed thereof for the term aforesaid; and being so thereof possessed, afterwards, to wit, on the twenty-fourth day of the same month of June, in the year last aforesaid; by a certain indenture made between the said James, Duke of York, of the one part, and the said John, Lord Berkley, and Sir George Carteret, of the other part, bearing date the same day and year last aforesaid, for and in consideration of a competent sum of good and lawful money of England, to the said James, Duke of York, paid by the said John, Lord Berkley, and the said Sir George Carteret, he the said James, Duke of York, granted, bargained, sold, leased, and confirmed, to the said John, Lord Berkley, and Sir George Carteret, and to their heirs and assigns forever, they there being in their actual possession the tenements last aforesaid, with the appurtenances, so as aforesaid, to be called New Cæsarea, or New Jersey; and also all rivers, mines, minerals, woods, fishings, hawkings, huntings, and fowlings, and all other royalties, profits, commodities, and hereditaments whatsoever, to the said landed premises belonging or in any wise appertaining, with their and every of their appurtenances, in as full and ample a manner as the same were granted to the said James, Duke of York, by the before recited letters patent; to have and to hold the denements last aforesaid, with the appurtenances and every of them, unto the said John, Lord of Berkley, and Sir George Carteret, their heirs and assigns forever.

III. Charles II to James, Duke of York, letters patent, dated 29th June, 1674, which conveys the soil, powers of government, and royalties of New Jersey to the Duke of York, by the same words in the original letters patent—prout the same.

IV. Duke of York to Sir George Carteret, deed dated 29th July, 1674, conveying East New Jersey; the same as conveyed to him by previous grants—prout the same.

V. Letters of Charles II, dated June 13, 1674, recognising and confirming Carteret's title and powers of government—prout the same.

VI. The commission given by Sir George Carteret to Philip Carteret, the first governor of the province of New Jersey, by which full power is given to act as governor—prout the same. Dated July 31, 1674.

VII. Quintiparte deed, between the proprietors of East and West Jersey, dated July 1, 1676, recites former conveyance, and divides East and West Jersey—prout the same.

VIII. Will of Sir George Carteret, dated Dec. 5, 1678, vesting his estate in trustees, with power to sell, &c.—prout the same.

IX. Dame Carteret and trustees of Sir George Carteret to the twelve proprietors, deed dated Feb. 2, 1682, conveying East New Jersey, with the soil, royalties, and powers of government, to the twelve proprietors, in the same manner and by the same words of conveyance as original, granted to the Duke of York—prout the same.

X. The twelve proprietors to twelve others; several conveyances, dated in the year 1682, whereby the twelve proprietors convey to twelve others the soil, powers of government, royalties, &c., in as full and ample a manner as they then held the same. This vesting the proprietary interest in twenty-four proprietors—prout the said conveyances.

XI. And the said plaintiff, further to maintain the issue on his part, also read in evidence a deed of confirmation of the Duke of York to the twenty-four proprietors, dated March 24, 1682—prout the same. See appendix B, on part of plaintiff.

XII. Also letters patent of Charles II to the twenty-four proprietors, dated 23d November, 1683, recognising and confirming the right and title to the said proprietors in and to the soil, royalties, franchises, &c., of East New Jersey, in the following words, that is to say:

Charles, R.

Whereas his Majesty, for divers good causes and considerations him thereunto moving, by letters patent, bearing date the twenty-ninth day of June, anno Domini 1674, in the twenty-sixth year of his Majesty's reign, was pleased to give and grant unto his said dearest brother James, Duke of York, several territories, islands, and tracts of land in America, part of which were since called by the name of Nova Cæsarea, or New Jersey, and was vested in John, Lord Berkley, of Stratton, and Sir George Carteret, knight and barronet, who were both of his Majesty's most honorable privy council, and in their heirs and assigns; and the east part or portion of the said province of New Jersey, by a certain deed of partition afterwards made, became the share of the said Sir George Carteret, his heirs and assigns, and was agreed to be called East New Jersey, and was since assigned to the present proprietors.

And whereas his royal highness James, Duke of York, by his indenture, bearing date the fourteenth day of March, anno domini 1682, in the thirty-fifth year of his Majesty's reign, (for the consideration therein mentioned,) did grant and confirm the said province of East New Jersey, (extending eastward and northward all along the seacoast and Hudson's river, from Little Egg Harbor to that part of Hudson's river which is in forty-one degrees of north lattitude, and otherways bounded and limited, as in said grant and confirmation, relation being thereunto had may more particularly and at large appear,) unto James, Earl of Perth; John Drummond, of Lundie; as also unto Robert Barckly, of Eury, esq.; Robert Gordon, of Clunie, esq., and others, his Majesty's loving subjects in England, Scotland, and elsewhere, to the number of twenty-four grantees, and to their heirs and assigns forever; together with all powers and jurisdictions necessary for the good government of the said province. His Majesty, therefore, doth hereby declare his royal will and pleasure, and doth strictly charge and command the planters and inhabitants, and all other persons concerned in the said province of East New Jersey, that they do submit and yield all due obedience to the laws and government of the said grantees, their heirs and assigns, as absolute proprietors and governors thereof, (who have the sole power and right, derived under his royal highness from his said Majesty, to settle and dispose of the said province upon such terms and conditions as to them shall seem good,) as also to their deputy or deputies, agents, lieutenants, and officers, lawfully commissioned by them according to the powers and authorities granted to them. And of this, his Majesty's royal will and pleasure, the governors and council *is* required to give public notice, his Majesty expecting and requiring forthwith a due compliance with his royal will and pleasure from all persons as well without the province as within the same, (who these presents do or may concern,) as they will answer the contrary thereof at their peril.

Given at the court at Whitehall *in* the twenty-third day of November, 1683, in the thirty-fifth year of his Majesty's reign.

By his Majesty's command.

SUNDERLAND.

To the governor and council of East New Jersey, for the time being, and to the planters, inhabitants, and all others concerned in the said province.

And the plaintiff's counsel, further to maintain the said issue on their part, read in evidence:

XIII. An act of the legislature of the State of New Jersey, entitled "An act for running and ascertaining the line to partition or division between the eastern and western divisions of the province of New Jersey, and for preventing disputes for the future concerning the same, and for securing to the general proprietors of the soil of each of the divisions, and persons claiming under them, their several and respective possession, rights, and just claims." Passed March 27, 1719. Rev. stat. New Jersey, p. 19.

XIV. An act of the legislature of the State of New Jersey, entitled "An act to ratify and confirm an agreement made between the commissioners appointed by the governor of the State of New York, and the commissioners appointed by the governor of the State of New Jersey *expecting* the territorial limits and jurisdiction between the said States." Passed February 26, 1834. Rev. stat. New Jersey, p. 37.

The counsel for the plaintiff then read in evidence the following conveyances, vesting the title of the proprietors to the locus in quo in the lessor of the plaintiff, dated Nov. 30, 1835.

XV. The proprietors to Archer Gifford, Wm. C. H. Waddell, and Francis W. Brinley, dated November 30, 1835. Return and survey of four hundred and two acres of land under water, adjoining Jersey City, including the locus in quo—prout the same.

XVI. Archer Gifford, Wm. C. H. Waddell, and Francis W. Brinley to John Rutherford, Andrew B. Cobb, and Peter M. Ryerson, deed dated April 13, 1836, duly acknowledged and recorded, for the same premises mentioned in the above return—prout the same.

XVII. John Rutherford, Andrew B. Cobb and wife, and Peter M. Ryerson and wife, to Archibald Russell, Wm. C. H. Waddell, and Walter Rutherford—trustees for themselves and others, for the same premises—prout the same—deed dated December 2, 1839, duly acknowledged and rec'd.

XVIII. Archibald Russell, W. C. H. Waddell, and Walter Rutherford, with Andrew B. Cobb and other, agreements dated December 27, 1839, duly acknowledged and recorded, whereby among other things the cestui que trusts in the above deed authorize the sale and conveyance of the said premises—prout the same.

XIX. Archibald Russell, W. C. H. Waddell, and Walter Rutherford, to John Rutherford, deed dated September 18, 1847, duly acknowledged and recorded, for the same premises—prout the same.

XX. Archer Gifford, Wm. C H. Waddell, Francis W. Brinley, Andrew B. Cobb, Peter M. Ryerson, Archibald Russell, and Walter Rutherford, to John Rutherford, quit-claim deed, dated April 19, 1848, for the same premises—prout the same.

XXI. John Rutherford to Lewis M. Rutherford, deed dated July 15, 1848, duly acknowledged and recorded, for the same premises—prout the same.

XXII. Lewis M. Rutherford to Archibald Russell, deed dated December 15, 1848, duly acknowledged and recorded, for a portion of the said premises covering and including the locus in quo—prout the same.

Francis W. Brinley, a witness produced by the plaintiff, after being examined on his voir dire, and appearing not interested in the suit, was sworn in chief, and testified as follows: That he was a surveyor, and knew and had surveyed the premises in dispute; map marked A being shown witness, he pointed out the location of the premises; that the locus in quo is beyond and below the original low water mark in Hudson river, and was so in 1835 when he surveyed the premises, and also when he again surveyed them in 1838; in the year 1848 the locus in quo was artificially filled up, not by alluvion, and was above the tide; did not know how it was occupied; it was not a wharf, dock, or pier.

Being cross examined says: I am a proprietor and a deputy surveyor, and surveyor general; the survey that I made went directly along the shore, and was intended to cover the land under water, around Jersey City in Hudson's river, and the bays thereof, where the tide ebbs and flows. I know where Harsimus bay is, and I included that bay in this survey, except fifty-three acres surveyed to Budd before that time.

By this survey I did not go near the New York shore, and did not go out from the Jersey shore more than ten or eleven chains. Harsimus bay lies north of Jersey City; I included in this survey all of Harsimus bay and the lands under water, except the fifty-three acres surveyed to Budd. There is a bay south of Jersey City, called Communipau bay. The survey runs down to a street called Van Vorst street, or nearly there, and then goes out into New York bay. The survey takes in all the soil in front of Jersey City, about ten or eleven chains from Hudson street east, into Hudson's river. The place in dispute has been filled up artificially, not by alluvion; I don't know how the place in dispute is occupied; to appearance the land east of the premises in dispute is occupied by the offices and buildings appropriated for the use of the Cunard steamers. I cannot tell *from* the land east of the premises in dispute, was occupied in 1849.

The plaintiff here rested his cause. And the judge thereupon instructed the jury that upon the whole evidence aforesaid, if the same shall be believed by the jury, the plaintiff has made out no title to the premises in question, and is not entitled to recover, and gave his reasons therefor. To which instruction and opinion the plaintiff's counsel then and there excepted, and prayed that the said judge would set his hand and seal to a bill of exceptions, containing the several matters so excepted to on the part of the plaintiff, according to the form of the statute in such case made and provided; and thereupon the judge has set his hand and seal thereto, according to the form of the statute in such case made and provided, at the State-house in Trenton aforesaid, on the 9th of October, 1849.

R. C. GRIER,
Associate justice, S. C., U. S.

And the said the Associates of the Jersey Company desiring to bring their title before the court, to maintain and prove the issue on their part joined, offered in evidence the following deeds, records, and testimony.

The defendants gave in evidence from the grants, and concessions, and public statutes of New Jersey, published by Leaming & Spicer, page 609.

The surrender from the proprietors of east and west New Jersey, of their right of government to her majesty, Queen Ann, bearing date the 15th day of April, 1702. See appendix No. 1, on part of the defendant.

The defendants offered and read in evidence the following grants, made while that part of New Jersey, where the property in dispute is situated, was under the dominion of the Dutch government, and prior to the conquest of the same by the English from the Dutch.

William Kieft, Dutch general of New Netherlands, to Abraham

Isaacson Plank; consideration 450 guilders, payable by instalments: 1, payable at Fair, 1638; 2, payable 1639; 3, payable 1640; grants a certain lot of land called Paulus Hook, situated to the west of the island Manhattan, to the east from Ahassimus, in the west, to the valley which borders on it. This grant, acknowledged by William Kieft, director general of New Netherlands, from the one side, and Abraham Isaacson Plank, from the other side, before Cornelius Van Tiehouc, secretary of New Netherlands—prout the same.

William Kieft, director general of New Netherlands, from one side, to Abraham Isaacson Plank, dated May 1, 1638, grants a certain lot of land named Paulus Hook, situated to the west of the island Manhattan, to the east from Aharsimus, on the Hudson river, to the valley which borders on it, which land director Kieft sold to Abraham Plank.

This deed was made because the grantee of the last previously mentioned grant did not pay the consideration money at the time stipulated, and forfeited the grant so made by Kieft—prout the same.

The defendants also offered in evidence leases for this property, mentioned in the last grant referred to, to show title and possession.

Abraham Isaacson Plank to Garet Dirksen, tobacco planter, dated 21st October, 1638, for twelve successive years.

Abraham Plank to Cornelius Auss. Lease dated 20th April, 1643, which was a lease from 1st May, 1644, to May, 1650—prout the said leases.

Reference was then made to the conquest of the country, where this property is situated by the English, which took place on the ninth of September, 1664. By the treaty of Breda, made in 1667, peace was restored between England and Holland, and the Dutch titles were confirmed.

The defendants also offered in evidence the following deed:

Philip Carteret, in the names of John, Lord Berkley, and Sir George Carteret, to Abraham Isaacson Plank. Deed of confirmation, dated 12th May, 1668, and 20th year of the reign of Charles II, confirming the title to the said neck of land, heretofore granted to the said Plank by the said Dutch governor, Mynheer William Kieft; and to hold the same with all the gains, privileges, and immunities, royal mines excepted thereon—prout same deed.

It was thereupon alleged, without objection on the part of the plaintiff, that the heirs of Abraham Isaacson Plank conveyed the premises called Paulus Hook to Ido Cornelius Van Vorst, and that the said Ido Cornelius Van Vorst became the possessor of the same.

Said deed, it is supposed, was made September 13, 1698, and since lost.

Cornelius Van Vorst, by his last will and testament, devised unto his son, Cornelius Van Vorst, his heirs and assigns, all his real estate in the province of New Jersey, which will was offered in evidence—prout the same.

This will, dated 13th June, 1733, and admitted to probate the 15th day of August, 1753.

The defendants thereupon offered in evidence a certified copy of the act of the governor, council, and general assembly of the province of New Jersey, passed December 7, 1762, by which commissioners were appointed to divide the common lands in the township of Bergin, and appropriate them to the owners of the several patents in the said township—prout the same.

The defendants then offered in evidence the field book, made by the commissioners appointed under the act last aforesaid, by which it appeared that Paulus Hook, on the 1st day of March, 1765, was owned by Cornelius Van Vorst. The tract of land in said field book, called Paulus Hook, was known as patent No. 5.

The defendants then offered in evidence the following deed:

Cornelius Van Vorst to Anthony Dey, deed dated 20th day of March, 1804; acknowledged the 26th day of March, 1804; recorded the 28th day of March, 1804.

This deed conveyed the whole of the tract of land called Paulus Hook, together with the right of ferry from the said tract or parcel of land across the Hudson river, and the right and title of said Cornelius Van Vorst under the water of the Hudson river and the bays aforesaid, opposite said premises, as far as the right of the said Cornelius Van Vorst extends. See appendix No. 2, on part of defendants.

The following deed was then offered in evidence by the defendants:

Anthony Dey and Catharine Dey, his wife, to Abraham Varick, deed dated 18th April, 1804; acknowledged 14th day of May, 1804, before James Kent, judge of the supreme court of New York; recorded 22d day of May, 1804. Prout said deed.

The defendants also offered in evidence the following deed:

Abraham Varick to Richard Varick, Jacob Radcliff, and Anthony Dey, deed dated 19th day of April, 1804; acknowledged 14th day of May, 1804; recorded 22d day of May, 1804. Prout said deed.

The defendants further offered in evidence the following deeds:

Abraham Varick to Richard Varick, Jacob Radcliff, and Anthony Dey, deed dated 20th April, 1804; acknowledged 14th day of May, 1804, and recorded the 22d day of May, 1804. Prout said deed.

Richard Varick, Jacob Radcliff, and Anthony Dey to the Associates of the Jersey Company, deed dated 1st day of February, 1805; acknowledged 15th day of May, 1805; recorded August 5, 1805. See appendix No. 3 on part of defendants.

By these several deeds last mentioned, defendants gave evidence before the court and jury that all the title of Cornelius Van Vorst passed to the Associates of the Jersey Company.

The defendants then offered in evidence Mangin's map, made by Joseph F. Mangin for the Associates of the Jersey Company; and also other maps showing the former situation, and also the present situation of the property in controversy.

Cornelius Van Vorst, a witness produced and sworn on the part of the defendants, testified as follows:

The Cornelius Van Vorst mentioned in the will of the 13th June,

2152.

1733, offered in evidence in this cause, was the great-grandfather of witness, and the property described in the same included Paulus Hook. Deponent has heard the description of the property mentioned in the grant from William Kief to Abraham Isaacson Plank, offered in evidence on the part of the defendants; and he recognises the same as the description of Paulus Hook; the deed of confirmation of Carteret to Plank, offered in evidence on the part of the defendants, also describes the property known as Paulus Hook. Witness heard the deed read from Cornelius Van Vorst to Anthony Dey, and knows the premises mentioned in the same. At the time of the execution of that deed my grandfather was in the possession of the premises, known as Paulus Hook described in that deed; Anthony Dey took possession of Paulus Hook under that deed; Dey, his grantees, and the Associates of the Jersey Company, have been in possession of Paulus Hook; took from the time of the date of the deed of my grandfather to Dey to the present time, excepting such property as has been sold off in lots. During the time of the possession of my grandfather, and prior to the conveyance to Anthony Dey, there were small ferry stairs at the foot of Grand street, or a ferry from Grand street, Jersey City, to New York. The ferry from Paulus Hook has been continued down to the present time. Witness recognises Mangin's map offered in evidence on the part of the defendants. That map was made by Mangin for the Associates of the Jersey Company.

That map bears date April 15, 1804. After the Associates of the Jersey Company took possession of the property called Paulus Hook, they built docks, warehouses, and piers along the shore, and the shore is now occupied by docks, warehouses, and piers. In 1804 the shore was a sand beach; shortly after 1804, improvements were made, a bulkhead was constructed, a wharf south of the place in controversy was built. I knew the place in dispute; I recollect a wharf above and below that place. There was one pier almost adjoining the place in dispute. Think that pier was further out than the place in dispute. The shore, where the property in question was situated, was subject to great washings by storms.

I have an idea that the shore extended beyond the locus in quo. I judge from the appearance of the place in question. I recollect a sand beach over which the water would beat and flow back. I have no doubt a great deal was washed away.

Being cross examined by the counsel for the plaintiff, witness says: I don't know but that the line marked on the map was the shore. I think it was the shore. The storm made great inroads upon the shore. From the rocks inside I judged that the shore had, from time to time, washed away. I recollect a severe storm which washed away improvements along the shore. I think the ferry stairs, at the foot of Grand street, jutted out somewhat, so that there was a small cove in from the ferry stairs. I should think that the line on the map might represent low water-mark.

The water on the place in dispute was very shallow. I have seen it bare. The land along the river, now called Hudson street, and reclaimed from the river, has been built upon. Blocks of brick houses have been built there.

A paper being shown witness, by the counsel of the plaintiff, he says: He thinks it is in the handwriting of his grandfather. This paper is a petition to the proprietors to grant to his grandfather lands under water. Prout the same.

The lands mentioned in this petition are before the old homestead, and do not include the property in dispute.

Being re-examined in chief says, that the improvements along the Hudson river have not been carried out further than commerce would require, and to get to deep water. This witness testified that he was upwards of fifty years of age.

Stephen Seaman, a witness produced, sworn, and examined, on the part of the defendants, testified: That he had lived in Jersey City for 40 years; that he remembers the wharf called Drayton's. I should judge this wharf was between thirty and forty feet wide, and two hundred feet and upwards long. This wharf projected into the river from two hundred to two hundred and twenty-five feet from the bulkhead.

This wharf was in the form of an L, the place in dispute was within the L, and on the north side of the pier. Witness recollects this wharf about forty years. It was partly demolished in September, 1821, by a storm. Have seen it dry in the place formed by —— by the wharf shaped L, and have seen it dry outside of the L; the land in dispute was sometimes above and sometimes below ordinary low water-mark. The wharves and piers have not been carried far enough into the river to get to the depth necessary for commercial purposes. There is a bulkhead and pier east of and beyond the land in dispute. They are used for the line of steamships known as the Cunard steamers, and for other vessels. These wharves were carried out for the purpose of getting to deep water. It was necessary to remove the mud by dredging, to get water deep enough.

Witness testified that he had re-piled wharves south of these premises. The bulkhead east of the easterly line of Hudson street has been there as long as I have resided at Jersey City, forty years. I suppose that bulkhead must be a part of the land in dispute. Being cross examined on the part of the plaintiff, testified: I never saw the place before there were any erections [of] a bulkhead. Hudson street has always been open to the water, until within a few years. The bulkhead was seven or eight feet wide, and built in the ordinary way.

Henry Southmayd, a witness produced and sworn on the part of the defendants, testified as follows: I have resided at Jersey City nearly twenty years, and for the last fifteen years have been the agent of the Associates of the Jersey Company, the defendants in this cause. Hudson street has always been seventy feet wide. There was a bulkhead east of and outside of Hudson street, when I first went to Jersey City. When I went to reside at Jersey City that bulkhead was old and in a dilapidated condition. I caused it to be repaired at the expense of

$1,000. I should think, from the appearance, that the land in dispute did not extend to the end of the behalf in the form of the L. The —— of the L wharf, I should suppose, was fifteen feet beyond the easternmost line of the land in dispute. Drayton's wharf was an old wharf when I went to reside at Jersey City. A part of the property in dispute was filled in prior to the nearest filling in made by the defendants. The defendant filled up the land in dispute, except what had been previously filled up for the purpose of enabling us to get to piers and storehouses which are further east in the river. The land in dispute is not now otherwise occupied; the same has been sold, or advertised to be sold or leased. The lands in dispute now lie open out in common, and outside and east of the land in dispute a bulkhead and wharves have been constructed. These wharves were constructed outside of the lands in dispute that we might get to deep water. The building of bulkhead and piers outside of the lands in dispute was done under the sanction of the mayor and common council of Jersey City. The defendants have always collected the wharfage, &c. A principal part of the property reclaimed is occupied for purposes of commerce. A part of Hudson street was made when I [first] went to Jersey City to reside; a part has since been filled up. Hudson street has been filled up by the Associates of the Jersey Company. Being cross examined by the plaintiff, testified: The map produced is the original map made by Mangin for the Associates of the Jersey Company. Hudson street has since been entirely filled up, north of the property in dispute; and when not filled up, remaining in the same situation it was in when I up, went to Jersey City to reside. Hudson street, where it has been filled has been chiefly filled up by the defendants, and at a very large expense.

Being re-examined in chief, testified: Drayton's wharf now constitutes a part of the bulkhead which has recently been built here out into the river. Hudson street is 70 feet wide, and so laid down on Manganis' map, which has been offered in evidence. The land in dispute comes to, and borders upon, a part of the Drayton wharf.

The defendants offered in evidence the field book, made by the commissioners, to partition the common lands among the owners of the several patents in the township of Bergen, &c., and also maps illustrating the former position of the shore and the present position of the property in dispute.

The defendants then rested their cause.

The plaintiff then offered in evidence the petition of Cornelius Van Vorst, directed to the Board of Proprietors of East New Jersey, dated April 8th, 1767. Prout the same.

Daniel Crane, a witness produced and sworn on the part of the plaintiff, testified: I have lived at Jersey City forty-five years; I went there to reside in the year 1804; recollects Mangin's map. The Associates of the Jersey Company were making docks and bulkheads outside of Hudson street when I went to Jersey City to live. The Associates of the Jersey Company filled in the lands under water. I was formerly a fisherman; I have drawn the seine where Hudson street is, at the foot of York street. There was a pier and bulkhead built outside of Hudson street, near the corner of Hudson and Grand streets.

Being cross examined said: Vessels lay in the place where the property in dispute is situated at the time of the embargo; vessels lay outside of the L wharf at the time of the embargo.

The defendants offered in evidence an act to incorporate the Associates of the Jersey Company, (see appendix No. 4, on part of defendants;) and rested their cause.

The court, in substance, charged the jury, that the plaintiff had not made out sufficient title to the land in dispute to enable him to recover possession of the same from the defendants in this action of ejectment; and that the plaintiff claimed title to the lands in question under a survey made by Francis W. Brinley, who had sworn that he was one of the proprietors of East New Jersey, and a deputy surveyor and surveyor general. The plaintiff insists, that at the time of the survey, the thirtieth day of November, in the year eighteen hundred and thirty-five, the lands in dispute were flowed by the waters of Hudson river, which were public navigable waters, and have been filled in by the defendants, since that time, by artificial means. The plaintiff claims title in no other way than as derived under this survey, which title could not now be maintained. The court further charged the jury, that when the Revolution took place, the people of each State became sovereign, and, in that character, held the absolute right to all their navigable waters, and soils under them, for their common use; and that no title for lands, flowed by the tide waters of Hudson's river, could be made at the time of the survey by the proprietors.

That the regalia of the Crown changed with the change of sovereignty; and that since the Revolution, and the establishment of an independent sovereignty in New Jersey, the proprietors could no longer claim an ownership in the soil under water in the rivers, bays, and arms of the sea.

The court also adverted to the surrender of the proprietary government to Queen Anne, and charged the jury as to the effect of that surrender, that thereby all the jura regalia which belonged to the proprietors were surrendered to the Crown.

The court charged the jury that these were no longer unsettled questions in New Jersey, having been settled by the decision of the Supreme Court of the United States, and also by the decision of the courts of New Jersey.

That under the view of the case taken by the court, it was unnecessary to look into and examine the title made out by the defendants.

The counsel for the plaintiff excepted to so much of the charge of the court as is contained in the instruction to the jury, "that the plaintiff had not made out sufficient title to the lands in dispute to enable him to recover possession of the same from the defendants."

And also excepted to that part of the charge of the court which instructs the jury, "that when the Revolution took place the people of each State became sovereign, and in that character held the absolute

right to all their navigable waters and soils under them for their common use, and that no title for lands flowed by the tide waters of the Hudson river could be made at the time of the survey by the proprietors."

And also excepted to that part of the charge of the court which instructs the jury that the regalia of the crown changed with the change of sovereignty; and that since the Revolution, and the establishment of an independent sovereignty in New Jersey, the proprietors could no longer claim an ownership in the soil under water in the rivers, bays, and arms of the sea.

And also excepted to that part of the charge of the court which instructs the jury "as to the effect of that surrender, that thereby all the jura regalia which belonged to the proprietors were surrendered to the Crown."

And also excepted to that part of the charge of the court which instructs the jury that these were no longer unsettled questions in New Jersey, having been settled by the decision of the Supreme Court of the United States, and also by the decision of the courts of New Jersey.

And the counsel for the plaintiff prayed that the judge would set his hand and seal to a bill of exceptions containing the several matters so excepted to on the part of the plaintiff, according to the form of the statute in such case made and provided. And thereupon the judge has set hereto his hand and seal, at the State-house in Trenton aforesaid, on the 9th of October, 1849.

R. C. GRIER.

(For map see original, page 46.)

Duke of York's release.

This indenture, made the fourteenth day of March, in the five and thirtieth year of the reign of our sovereign lord, Charles the Second, by the grace of God of England, Scotland, France, and Ireland, king, defender of the faith, &c., anno domini 1682, between his royal highness, the most illustrious prince James, Duke of York and Albany, Earl of Ulster, &c., only brother of our sovereign lord the King, of the one part, and the right honorable James, Earl of Perth, of the kingdom of Scotland; the honorable John Drummond, of Lundy, in the said kingdom of Scotland, esq.; Robert Barckly, of Eury, in the said kingdom of Scotland, esq.; David Barckly, jun., of Eury aforesaid, esq.; Robert Gordon, of Cluny, in the kingdom of Scotland, esq.; Arent Sonmans, of Wallingford, in the kingdom of Scotland, esq.; William Penn, of Worminghurst, in the county of Sussex, esq.; Robert West, of the Middle Temple, London, esq.; Thomas Rudyard, of London, gentleman; Samuel Groome, of the parish of Stepney, in the county of Middlesex, mariner; Thomas Hart, of Enfield, in the said county of Middlesex, merchant; Richard Mew, of Stepney aforesaid, merchant; Ambrose Rigg, of Cotton Place, in the county of Surry, gentleman; Thomas Cooper, citizen and merchant tailor, of London; Gawn Lawry, of London, merchant; Edward Billinge, of the city of Westminster, in the county of Middlesex, gentleman; James Braine, of London, merchant; William Gibson, citizen and haberdasher, of London; John Haywood, citizen and skinner, of London; Hugh Hartshorn, citizen and skinner, of London; Clement Plumstead, citizen and draper, of London; Thomas Barker, of London, merchant; Robert Turner, of the city of Dublin, in the kingdom of Ireland, merchant; and Thomas Warne, of Dublin aforesaid, in the said kingdom of Ireland, merchant, of the other part.

Whereas, our said sovereign lord the King's majesty, in and by his letters patent, under the great seal of England, bearing date the twelfth day of March, in the sixteenth year of his said Majesty's reign, did, among several other things therein mentioned, give and grant unto his royal highness, James, Duke of York, his heirs and assigns, all that tract of land adjacent to New England, in the parts of America, and lying and being to the westward of Long Island and Manhattas island, and bounded on the east part by the main sea, and east by Hudson's river, and hath on the west Delaware bay or river, and extendeth southward to the main ocean, as far as Cape May, at the mouth of Delaware bay; and to the northward as far as the northermost branch of the said bay or river of Delaware, which is one and forty degrees and forty minutes of latitude, and crossing over thence, in a straight line, to Hudson's river, in one and forty degrees of latitude; which said tract of land was thereafter to be called by the name of New Cæsarea, or New Jersey, with all the lands, islands, soils, rivers, mines, minerals, quarries, woods, marshes, waters, lakes, fishings, hawkings, huntings, and fowlings, and all other royalties, profits, commodities, and hereditaments unto the said premises belonging and appertaining, with their and every of their appurtenances; and all his said Majesty's estate, right, title, interest, benefit, advantage, claim, and demand of, in, and to the same premises, or any part or parcel thereof, and the reversion and reversions, remainder and remainders, together with the yearly and other rents, revenues, and profits of the same, and of every part and parcel thereof, to hold unto his said royal highness, the said James, Duke of York, his heirs and assigns forever; to be holden of his said Majesty, his heirs and successors, amongst other, the things therein granted, as of his Majesty's manor of East Greenwich, in his Majesty's county of Kent, in free and common soccage, and not in capite or knight service, under the yearly rent therein mentioned.

And whereas his said royal highness, James, Duke of York, did heretofore, by several good and sufficient conveyances and assurances, under his hand and seal duly executed, the twenty-third and twenty-fourth days of June, in the sixteenth year of his said Majesty's reign, for the consideration therein mentioned, grant and convey the said tract of land and premises before mentioned, to John, Lord Berkley, Baron of Stratton, and one of his Majesty's most honorable privy council, and Sir George Carteret, of Salterem, in the county of Devon, knight and baronet, and one other of his Majesty's most honorable privy council, and their heirs, the said tract of land and premises before particularly mentioned, and the reversion and reversions, remainder and remainders, of the same, to hold unto the said John, Lord Berkley, and Sir George Carteret, their heirs and assigns forever, under the yearly rent of twenty nobles sterling, payable as the same is therein reserved to be paid.

And whereas his said Majesty did, by other his letters patent, dated the twenty-ninth day of June, in the sixth and twentieth year of his said Majesty's reign, grant and convey unto his said royal highness, and his heirs forever, as well the said tract of land and premises herein before recited, to have been granted and conveyed by his said royal highness untot he said John, Lord Berkley, and Sir George Carteret as aforesaid, as all other the lands and hereditaments in and by the said herein first before recited letters patent granted or mentioned to be granted.

And whereas his said royal highness, by his indenture of lease and release, bearing date the   of July, in the sixth and twentieth year of his Majesty's reign, did grant and convey the said tract of land and premises to the said Sir George Carteret, his heirs and assigns, as by the said indenture, relation being thereunto had, may appear.

And whereas upon a partition made of the whole and entire premises, between the said Sir George Cartaret and William Penn, of Worminghurst, in the county of Sussex, esq., Gawen Lawry, of London, merchant, Nicholas Lucas, of Hertford, in the county of Hertford, malster, and Edward Bullynge, of Westminster, in the county of Middlesex, gentleman, in whom the fee simple of the said Lord Berkley's undivided moiety of all and singular the premises, by good and sufficient conveyances, was then vested; the said William Penn, Gawen Lawry, Nicholas Lucas, and Edward Ballynge, did bargain, sell, release, and confirm, unto the said Sir George Carteret, his heirs and assigns, all that easterly part, share, and portion, and all those easterly parts, shares, and portions, of the said whole and entire tract of land and premises before mentioned, extending eastward and northward along the sea coasts, and the said river called Hudson's river, from the east side of a certain place or harbor, lying on the southerly part of the same tract of land, and commonly called or known in a map of the said tract of land, by the name of Little Egg Harbor, to that part of the said river called Hudson's river, which is in forty-one degrees of latitude, being the northernmost part of the said tract of land and premises, which is bounded by the said river; and crossing over from thence in a straight line, extending from that part of Hudson's river aforesaid, to the northermost branch of the aforementioned river, called Delaware river, and to the most northerly point or boundary of the said entire tract of land and premises, now called the north partition point; and from thence, that is to say, from the north partition point, extending southward unto the more southerly point, by a straight and direct line drawn through the said tract of land from the said north partition point unto the said south partition point, by the consent and agreement of the said parties, now called the line of partition, and by them intended for the dividing and making a partition of the easterly part, share, and portion, from the westerly part, share, and portion of the said tract of land and premises; and all and every the isles, islands, rivers, mines, minerals, woods, fishings, hawkings, huntings, and fowlings, and all other royalties, governments, powers, forts, franchises, harbors, profits, commodties, and hereditaments whatsoever, unto the said easterly part, share, and portion of the said tract of land and premises belonging, or in any wise appertaining, with their and every of their appurtenances; and all the estate, right, title, interest, claim, and demand whatsoever of them, the said William Penn, Gawen Lawry, Nicholas Lucas, and Edward Byllynge, and of each and every of them, of, into, and out of the said easterly part, share, and portion of the said tract of land and premises, and every part and parcel thereof, and the reversion and reversions, remainder and remainders of the same, and every part and parcel of the same; all of which said easterly part, share, and portion was, and were then, and now is, and are, by the consent and agreement of the said parties to the said partition, called and agreed from thenceforth to be called by the name of East New Jersey; and is all that, and only that part, share, and portion, and all those parts, shares, and portions of the said tract of land and premises, so conveyed by his said royal highness as aforesaid, as lyeth, extendeth eastward from the east side of the said line of partition before mentioned, to hold to the said Sir George Carteret, his heirs and assigns, in severalty, to the use of him, the said Sir George Carteret, his heirs and assigns forever; upon which partition so made, and such conveyance so executed, as aforesaid, he, the said Sir George Carteret, became seized of all that easterly part of the said premises now called East New Jersey, with the appurtenances in severalty.

And whereas the said Sir George Carteret being by virtue of the said assurances and partition aforesaid, become sole seized to him and his heirs of the said premises, called East New Jersey, by his last will and testament in writing, bearing date on or about the fifth day of December, in the year of our Lord one thousand six hundred seventy and eight, did devise the same, and all his estate therein, amongst other things, to the right honorable Edward, Earl of Sandwich; the right honorable John, Earl of Bath; the right honorable Thomas, Lord Crew, Baron Crew, of Steane; the honorable Bernard Greenville, esq., brother of the said Earl of Bath; the honorable Sir Robert Atkins, knight of the Bath; the honorable Sir Edward Atkins, knight, one of the barons of his Majesty's court of exchequer, and their heirs in trust, to sell the same, for the payment of his debts and legacies, as in and by the said will, relation being thereunto had, may appear, and shortly after died.

And whereas the said John, Earl of Bath, Thomas, Lord Crew, Bernard Greenville, Sir Robert Atkins, and Sir Edward Atkins, by indentures of lease and release, bearing date the fifth and sixth days of March, in the two and thirtieth year of his Majesty's reign, conveyed the said premises amongst other things to Thomas Cremer, of the parish of St. Andrews, Holbourne, in the county of Middlesex, gentleman, and Thomas Pocock, of the same, gentleman, as by the said indentures, relation being thereunto had, may appear.

And whereas the said Earl of Sandwich, by his indenture, bearing date the twentieth day of February last past, hath released all his estate, interest, and trust in the said premises to the said Earl of Bath, Lord Crew, Bernard Greenville, Sir Robert Atkins, and Sir Edward Atkins, and their heirs, as by the said indenture, relation being thereunto had, may appear.

And whereas the said Earl of Bath, Lord Crew, Bernard Greenville, Sir Robert Atkins, and Sir Edward Atkins, by the consent and direction of Dame Elizabeth Carteret, relic and executrix of the said Sir George Carteret; and the said Thomas Cremer, and Thomas Pocock, by the consent and direction of the said Dame Elizabeth Carteret, Earl of Bath, Lord Crew, Bernard Greenville, Sir Robert Atkins, and Sir Edward Atkins, have by indentures of lease and release, bearing date the first and second days of February, last past, granted and conveyed to the said William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Thomas Wilcox, of London, goldsmith, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumsted, and Thomas Cooper, their heirs and assigns, all the said premises, called East New Jersey, together with all isles, islands, rivers, mines, minerals, woods, fishings, hawkings, huntings, fowlings, and all other royalties, privileges, franchises, forts, harbors, profits, commodities, and hereditaments whatsoever thereunto belonging, as in and by the said indentures, relation being thereto had, may more at large appear.

And whereas the said William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Thomas Wilcox, Ambrose Rigg, John Haywood, Hugh Hartshorne, Clement Plumstead, and Thomas Cooper, have since conveyed one moiety of the said tract of land, called East New Jersey, and of all other the premises, to the said James, Earl of Perth, John Drummond, Robert Barckley, Robert Gordon, Arent Sonmans, Gawn Lawry, Edward Bylling, James Braine, William Gibson, Thomas Barker, Robert Turner, and Thomas Warne, who are thereby become tenants in common of the said premises, called East New Jersey, which with the said William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Thomas Wilcox, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, and Thomas Cooper.

And whereas the said Thomas Wilcox has since conveyed all his share, estate, and interest in the said premises to the said David Barckley, and his heirs.

And whereas by the said several recited letters patents, made by his said Majesty unto his said royal highness as aforesaid, several powers and authorities are and were given and granted unto his said royal highness, his heirs and assigns, to be executed by his said royal highness, his heirs or assigns, or by the deputies, agents, or commissioners, of his said royal highness, his heirs or assigns, which are necessary as well for the planting, peopleing, and improving of all and every the respective lands, places, and territories thereof granted; and for the transporting thither, from time to time, such of his Majesty's subjects as should be willing to go, or be transported into those parts, or any of them, as for the defending, guarding, and keeping of the same; as also for the well governing of the same, and of all such as shall be inhabiting in the same; and for the making, ordaining, and executing of necessary and convenient laws and constitutions in order to such government; and the punishing and pardoning offences and offenders, as occasion shall require; and to make, ordain, constitute, and confirm, and also to revoke, discharge, change, and alter, all and singular governors, officers, and magistrates, which by his said royal highness, his heirs and assigns, shall be from time to time thought fit and needful to be made, ordained, appointed, or used in the said parts or places, or any of them; and to do all other things needful, useful, and necessary, for the well governing, keeping, defending, and preserving the said respective places and territories, and of every of them, and all such as are and shall be inhabiting there.

Now these presents witness, that for and in consideration of a competent sum of lawful English money, unto his said royal highness in hand paid, and for the better extinguishing all such claims and demands as his said royal highness, or his heirs, may any wise have of or in the premises aforesaid, now called East New Jersey, or any part of them, and for the further and better settling and conveying, assuring and confirming, of the same, and of every part thereof, according to the purport and true meaning of these presents, his said royal highness, the said James, Duke of York, hath granted, bargained, sold, released, and confirmed, and by these presents, as far as in him lyeth, doth gran bargain, sell, release, and confirm, unto the said James, Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner, and Thomas Warne, their heirs and assigns, all that part, share, and portion, and all those parts, shares, and portions, of all that entire tract of land, and all those entire premises, so granted by his said royal highness, unto the said John, Lord Berkely, and Sir George Carteret, and their heirs, as in, and by, and upon the said partition was and were vested in the said Sir George Carteret, and his heirs, and then agreed to be called by the name of East New Jersey, together with all islands, bays, rivers, waters, forts, mines, minerals, quarries, royalties, franchises, and appurtenances whatsoever to the same belonging, or in any wise appertaining, and all the estate, right, title, interest, reversion, remainder, claim, and demand whatsoever, as well in law as in equity, of his said royal highness, James, Duke of York, of, in, unto, and out of the same, or any part or parcel of the same; as also the free use of all bays, rivers, and waters leading unto or lying between the said premises, or any of them, in the said parts of East New Jersey, for navigation, free trade, fishing, or otherwise. To have and to hold unto the said Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner, and Thomas Warne, their heirs and assigns forever, to the only use and behoof of them, the said Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Hayward, Hugh Hartshorn, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner, and Thomas Warne, their heirs and assigns forever, yielding and paying therefor yearly, for the said whole entire premises, unto his royal highness, his heirs and assigns, the yearly rent of ten nobles of lawful English money, at or in the Middle Temple Hall, London, at or upon the feast day of St. Michael the Archangel, yearly. And the said James, Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner, and Thomas Warne, do for themselves severally, and for their several and respective heirs, executors, administrators, and assigns, covenant, promise, and agree, to and with his said royal highness, his heirs and assigns, to pay, or cause to be paid, the said annual rent of ten nobles on the days and times herein before limited for payment thereof. And these presents further witness, that for the better enabling the said Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorn, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Robert Turner, and Thomas Warne, their heirs and assigns, to improve and plant the said premises with people, and to exercise all necessary government there, whereby the said premises may be the better improved and made more useful to them, their heirs and assigns, and to the King's majesty, his said royal highness hath likewise given and granted, assigned and transferred, and doth by these presents give, grant, assign, and transfer, unto the said Earl of Perth, John Drummond, Robert Barclay, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thomas Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorne, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Billinge, James Braine, William Gibson, Thomas Barker, Robert Turner, and Thomas Warne, their heirs and assigns, proprietors of the said province of East New Jersey aforesaid, for the time being, all and every such and the same powers, authorities, jurisdictions, governments, and other matters and things whatsoever, which by the said respective recited letters patent, or either of them, are or were granted, or intended to be granted, to be exercised by his said royal highness, his heirs, assigns, deputies, officers, or agents, in or upon, or in relation unto, the said premises, hereby confirmed, or intended to be hereby confirmed, and every of them, in case the same were now in the actual seizin of his royal highness; to be held, enjoyed, exercised, and executed by them, the said Earl of Perth, John Drummond, Robert Barckly, David Barckly, Robert Gordon, Arent Sonmans, William Penn, Robert West, Thomas Rudyard, Samuel Groome, Thos. Hart, Richard Mew, Ambrose Rigg, John Haywood, Hugh Hartshorne, Clement Plumstead, Thomas Cooper, Gawn Lawry, Edward Byllynge, James Braine, William Gibson, Thomas Barker, Rob't Turner, and Thomas Warne, their heirs and assigns, proprietors of the said province of East New Jersey for the time being, as fully and amply, to all intents, constructions, and purposes, as his said royal highness or his heirs might, could, or ought to hold, enjoy, use, exercise, or execute the same, by force and virtue of the said several and respective before recited letters patent, or either of them, or any thing in them, or eitheror any of them contained, or otherwise howsoever: Provided, always, That these presents be entered with the auditor general of his said royal highness within two months next after the date hereof.

In witness whereof, the parties above mentioned to these present indentures, interchangeably have set their hands and seals, the day and year first above written. JAMES.

Sealed and delivered by his royal highness in the presence of—
Ro. Werden,
William Crofts,
John Ashton.

Whereas, his Majesty, for divers good causes and considerations him thereunto moving, by letters patent, bearing date the twenty-ninth day of June, anno Domini 1674, in the twenty-sixth year of his Majesty's reign, was pleased to give and grant unto his dearest brother James, Duke of York, several territories, islands, and tracts of land in America, part of which were since called by the name of Nova Cæsaria, or New Jersey, and was vested in John, Lord Berkley, of Stratton, and Sir George Carteret, knight and baronet, and who were both of his Majesty's most honorable privy council, and in their heirs and assigns

And the east part or portion of the said province of New Jersey, by a certain deed of partition afterwards made, became the share of the said Sir George Carteret, his heirs and assigns, and was agreed to be called East New Jersey, and was since assigned to the present proprietors.

And whereas, his royal highness, James, Duke of York, by this indenture, bearing date the fourteenth day of March, anno Dom. 1682, in the thirty-fifth year of his Majesty's reign, (for the consideration therein mentioned,) did grant and confirm the said province of East New Jersey (extending eastward and northward all along the seacoast and Hudson's river, from Little Egg harbor to that part of Hudson's river which is in forty-one degrees of *of* northern latitude, and other ways bounded and limited, as in said grant and confirmation, relation being thereunto had, may more particularly and at large appear,) unto James, Earl of Perth; John Drummond, of Lundie; as also unto Robt. Barkley, of Eury, esq.; Robert Gordon, of Clunie, esq.; and others, his Majesty's loving subjects in England, Scotland, and elsewhere, to the number of twenty-four grantees, and to their heirs and assigns for ever, together with all powers and jurisdictions necessary for the good government of the said province. His Majesty, therefore, doth hereby declare his royal will and pleasure, and doth strictly charge and command the planters and inhabitants, and all other persons concerned in the said province of East New Jersey, that they do submit and yield all due obedience to the laws and government of the said grantees, their heirs and assigns, as absolute proprietors and governors thereof, (who have the sole power and right, derived under his royal highness from his said Majesty, to settle and dispose of the said province upon such terms and conditions as to them shall seem good,) as also to their deputy or deputies, agents, lieutenants, and officers, lawfully commissioned by them according to the powers and authorities granted to them. And of this, his Majesty's royal will and pleasure, the governor and council is required to give public notice, his Majesty expecting and requiring forthwith a due compliance with this his royal will and pleasure from all persons, as well without the province as within the same, (who these presents do or may concern,) as they will answer the contrary thereof at their peril.

Given at the court at Whitehall, the twenty-third day of November, 1683, in the thirty-fifth year of his Majesty's reign.

By his Majesty's command: SUNDERLAND.

To the Governor and Council of East New Jersey, for the time being, and to the planters, inhabitants, and all others concerned in the said province.

Appendix C, on part of plaintiff.

To the honorable the council of proprietors of the eastern division of New Jersey.

The petition of Cornelius Vanvorst, of the township of Bergen, within said province, humbly showeth:

That your petitioner, being entitled to the patent called Paulus Hook, has already been at considerable expense in building and docking from said patent into the water, and intends to lay out more money that way; and as the title to the lands under water round said Paulus Hook is vested in the general proprietors of said eastern division of New Jersey, your petitioner, therefore, humbly prays that the honorable board will grant three chains into the water on the front of his said patent, along Hudson's river and New York bay. And further prays a grant of four chains into the water of Hudson's river, on the front of his house lot at Harsimus, in Bergen aforesaid.

CORNELIUS VANVORST.

Bergen, April 8, 1767.

Surrender from the proprietors of East and West New Jersey of their pretended right of government to her Majes'y.

Whereas his late majesty, King Charles the Second, by his letters patent under the great seal of England, bearing date at Westminster, on or about the twelfth day of March, in the sixteenth year of his reign, did give and grant to James, then Duke of York, his heirs and assigns, all that part of the main land of New England beginning at a certain place called or known by the name of Saint Croix, next adjoining to New Scotland, in America, and from thence, extending along the seacoast, unto a certain place called Pemaquod, or Pemaquid; and so, up the river thereof, to the furthest head of the same as it tends northward, and extending from thence to the river of Kenibique; and so upwards, by the shortest course, to the river Canada northward; and also all that island or islands commonly called by the several name or names of Marrowacks or Long Island, situate, lying, and being, toward the west of Cape Codd, and the Narrohigansets, abutting upon the main land, between the two rivers there, called or known by the several names of Connecticut and Hudson's river; together, also, with the said river called Hudson's river, and all the lands from the west side of Connecticut river to the east side of Delaware bay. And also all those several islands, called or known by the names of Martin's Vineyard and Nantucks, or Nantucket; together with all the lands, islands, soils, rivers, harbors, mines, minerals, quarries, woods, marshes, waters, lakes, fishings, hawkings, hunting, and fowling, and all other royalties, profits, commodities, and hereditaments, to the several islands, lands, and premises belonging and appertaining, with their and every of their appurtenances. To have and to hold all and singular the said lands, islands, hereditaments, with their and every of their appurtenances, to the said James, Duke of York, his heirs and assigns, forever; to be held of the said King, his heirs and successors, as of his manor of East Greenwich, in Kent, in free and common soccage, and not in capite, or by knight's service; yielding and rendering therefor yearly, and every year, forty beaver skins, when demanded, or within ninety days after. And by the same letters patents the late King Charles the Second, for himself, his heirs and

2159

successors, did give and grant to the said James, Duke of York, his heirs, deputies, agents, commissioners, and assigns, full and absolute power and authority to correct, punish, pardon, govern, and rule, all such subjects of the said King, his heirs and successors, as should from time to time adventure themselves into the parts and places aforesaid, or that should at any time thereafter inhabit within the same, according to such laws, orders, ordinances, directions, and instructions as by the said Duke of York, or his assigns, should be established; and in defect thereof, in case of necessity, according to the good directions of his deputies, commissioners, officers, or assigns, respectively, as well in all causes and matters, as well capital and criminal as civil, both marine and others, so always as the said statutes, ordinances, and proceedings were not contrary, but as near as might be agreeable, to the laws, and statutes, and government of the realm of England; saving and reserving to his said Majesty, his heirs and successors, the receiving, hearing, and determining of the appeal and appeals of all or any other person or persons of, in, or belonging to, the territories or islands aforesaid, in or touching any judgment or sentence to be there made or given; and further, that it should and might be lawful, to and for the said Duke of York, his heirs and assigns, from time to time, to nominate, constitute, ordain, and confirm such laws as aforesaid, by such name or names, or stiles, as to him or them shall seem good; and likewise to revoke, discharge, change, and alter, as well all and singular governors, officers, and ministers, which thereafter should be by him or them thought fit or needful to be made or used within the aforesaid parts and islands; and also to make, ordain, and establish all manner of orders, laws, directions, instructions, forms, and ceremonies of government and magistracy, fit and necessary for and concerning the government of the territories and islands aforesaid, so always as the same were not contrary to the laws and statutes of the realm of England, but as near as might be agreeable thereunto; and the same, at all times thereafter, to put in execution, or abrogate, revoke, or change, not only within the precinct of the said territories or islands, but also upon the seas, in going and coming to and from the same, as he and they, in their good direction, should think to be fittest for the good of the adventurers and inhabitants there. And the late King did thereby grant, ordain, and declare, that such governors, officers, [and] ministers, as from time to time should be authorized and appointed in manner and form aforesaid, should and might have full power and authority to use and exercise martial law, in cases of rebellion, insurrection, and mutiny, in as large and ample manner as the lieutenants of his said Majesty, in his counties of the realm of England, had, or ought to have, by their commissions of lieutenancy, or any law or statute of the said realm of England. And the said late King did thereby, also for himself, his heirs and successors, grant to the said James, Duke of York, that it should and might be lawful for him, his heirs and assigns, in his or their discretions, from time to time, to admit such and so many person or persons, to trade and traffick unto and within the territories and islands aforesaid, and into every or any part or parcel thereof, and to have process and enjoy any lands and hereditaments in the parts and places aforesaid as they should think fit, according to the laws, orders, constitutions, and ordinances by the said James, Duke of York, his heirs, deputies, commissioners, and assigns, from time to time, to be made and established by virtue of and according to the true intent and meaning of the said letters patent, and under such conditions, reservations, and agreements, as the said James, Duke of York, his heirs and assigns, should set down, order, direct, and appoint, and not otherwise. And by the said letters patents, the said King did, for himself, his heirs, and successors, grant to the said James, Duke of York, his heirs and assigns, and to all and every such governor and governors, or other officers or ministers, as by the said James, Duke of York, his heirs or assigns, should be appointed, with power and authority of government and command in or over the inhabitants of the said territories or islands, that they and every of them should, or lawfully might, from time to time, and at all times thereafter or forever, for their several defence and safety, encounter, expulse, repel, and resist, by force of arms, as well by sea as by land, and all ways and means whatsoever, all such person or persons as without the especial license of the said James, Duke of York, his heirs or assigns, should attempt to inhabit within the several precincts and limits of the said territories and islands; and also all and every such person and persons whatsoever as should enterprise or attempt, at any time thereafter, the destruction or invasion, detriment or annoyance, to the parts, places, or islands aforesaid, or any part thereof; as by the said recited letters patents duly enrolled, relation being thereunto had, more at large may appear.

And whereas the estate, interest, right, and title of the said James, Duke of York, in and to the provinces of East Jersey and West Jersey, part of the premises by the said recited letters granted, are by mean conveyances and assurances in the law, come unto and vested or claimed, amongst others, by Sir Thomas Lane, Paul Dominique, Robert Mitchell, Joseph Brookshank, Michael Watts, Edward Richier, John Norton, Ebenezer Jones, John Whiting, John Willcocks, John Bridges, Thomas Skinner, Benjamin Steele, Obediah Burnett, Joseph Micklethwait, Elizabeth Miller, Benjamin Levy, Francis Minshall, Joseph Collier, Thomas Lewis, Jo. Bennet, John Booker, Benjamin Nelson, James Wassee, Richard Harrison, John Jurin, Richard Greenaway, Charles Mitchell, Francis Mitchell, Tracy Paunceford, William Hamond, Ferdinando Holland, William Dockura, Peter Sonmans, Joseph Grimston, Charles Ormston, Edward Antill, George Willocks, Francis Handcock, Thomas Barker, Thomas Cooper, Robert Burnet, Miles Forster, John Johnstone, David Lyell, Michael Hawdon, Thomas Warne, Thomas Gordon, John Barclay, Clement Plumstead, Gilbert Mollison, and Richard Hazel, the present proprietors thereof; and they also have claimed, by virtue of the said letters patents and mean conveyances, to exercise within the said provinces, for the governing the inhabitants thereof, all the powers and authorities for government granted by the said letters patents to the said Duke and his heirs and assigns;

2100.

but her Majesty hath been advised that they have no right, nor can legally execute any of the said powers, but that it belongeth to her Majesty, in right of her crown of England, to constitute governors of the said provinces, and to give directions for governing of the inhabitants thereof, as her Majesty shall think fit. And the said proprietors, being desirous to submit themselves to her Majesty, are willing to surrender all their pretences to the said powers of government, to the intent her Majesty may be pleased to constitute a governor or governors of the same province, with such powers, privileges, and authorities for the government thereof, and making of such laws there, with the consent of the assembly of the said provinces, and her Majesty's subsequent approbation thereof, as her Majesty in her great wisdom shall think fit and convenient.

We, therefore, the said Sir Thomas Lane, Paul Dominique, Robert Mitchell, Joseph Brookshanke, Michael Watts, Ed. Richier, John Norton, Ebenezer Jones, John Whiting, Clement Plumsted, John Wilcocks, John Bridges, Thomas Skinner, Benjamin Steele, Obadiah Burnet, Joseph Micklethwait, Elizabeth Miller, Benjamin Levy, Francis Minshall, Joseph Collier, Thomas Lewis, Jo. Bennett, John Booker, Benjamin Nelson, James Wasse, Richard Harrison, John Jurin, Richard Greenaway, Charles Mitchell, Francis Mitchell, Tracy Paunceford, William Hamond, Ferdinando Holland, William Dockura, Peter Sonmans, Joseph Grinston, Charles Ormston, Edward Anthill, George Willocks, Francis Hancock, Thomas Barker, Thomas Cooper, Robert Burnett, Miles Forster, John Johnston, David Lyell, Michael Hawdon, Thomas Warne, Thomas Gordon, John Barclay, Gilbert Molleson, and Richard Hazell, &c., the present proprietors of the said provinces of East Jersey and West Jersey, for the considerations and to the intent aforesaid, have surrendered and yielded up, and by these presents, for us and our heirs, do surrender and yield up, unto our sovereign Lady Anne, by the grace of God queen of England, Scotland, France, and Ireland, defender of the faith, &c., her heirs and successors, all these the said powers and authorities, to correct, punish, pardon, govern, and rule all or any of her Majesty's subjects or others, who now are or inhabit, or hereafter shall adventure into or inhabit, within the said provinces of East Jersey and West Jersey, or either of them; and also to nominate, make, constitute, ordain, and confirm any laws, orders, ordinances, and directions, and instruments for those purposes or any of them; and to nominate, constitute, or appoint, revoke, discharge, change, or alter, any governor or governors, officers or ministers, which are or shall be appointed, made or used within the said provinces or either of them; and to make, ordain, and establish, any orders, laws, directions, instruments, forms, or ceremonies of government and magistracy, for or concerning the government of the provinces aforesaid, or either of them, or on the sea, in going or coming to or from thence, or to put in execution, or abrogate, revoke, or change such as are already made for or concerning such government or any of them, and also all those, the said powers and authorities, to use and exercise martial law in the places aforesaid, or either of them, and to admit any person or persons to trade or traffick there, and of encountering, repelling, and resisting, by force of arms, any person or persons attempting to inhabit there without the license of us, the said proprietors, our heirs and assigns, and all others, the powers, authorities, and privileges of or concerning the government of the provinces aforesaid, or either of them, or the inhabitants thereof, which were granted, or mentioned to be granted, by the said recited letters patent, and every of them.

In witness whereof the persons above named have hereunto set their hands and seals, this fifteenth day of April, in the year of our Lord one thousand seven hundred and two, and in the first year of her Majesty's reign.

For the eastern division.

L. Morris, in the behalf of Robert Burnett,
Miles Forster,
John Johnstone,
Michael Hawdon,
John Barclay,
David Lyell,
Thomas Warne,
Thomas Gordon,
Thomas Parker,
Thomas Cooper,
Gilbert Mollison,
Henry Adderly, for Richard Hazel, of Barbadoes,

William Dockwra.
Peter Sonmans,
Joseph Ormston, for myself, and as proxy for Charles Ormston, Edward Anthill, and George Willocks, and representative of Francis Handcock.
Thomas Lane,
Paul Dominique,
Robert Mitchell,
Joseph Brookshank,
E. Richier,
Michael Watts,
Clement Plumstead.

For the western division.

Benjamin Nelson,
James Wasse,
Richard Harrison,
John Jurin,
Richard Greenaway,
Charles Mitchell,
Francis Mitchell,
Francis Paunceford,
Wm. Hamond,
Ferd. Holland,
Elizabeth Miller,
Benjamin Levy,
Francis Minshall,
Joseph Collin,
Thomas Lewis,
Jo. Bennet,

John Booker,
John Whiting,
John Willcocks,
John Bridges,
Thomas Skinner,
Benjamin Steel,
Obadiah Burnett,
Jos. Micklethwait,
Thomas Lamb,
Paul Dominique,
Robert Mitchell,
Jos. Brookshanks,
Michael Watts,
E. Richier,
John Norton,
Eben. Jones.

Sealed and delivered by Thomas Lane, Paul Dominique, Robert Mitchell, Joseph Brookshanks, Michael Watts, Edward Richier, John

Norton, Ebenezer Jones, John Whiting, John Willcocks, John Bridges, Thomas Skinner, Benjamin Steele, Obadiah Burnett, Joseph Micklethwait, Elizabeth Miller, Benjamin Levy, Francis Minshall, Joseph Collier, Thomas Lewis, John Bennett, John Booker, Benjamin Nelson, James Wasse, Richard Harrison, John Jurin, Richard Greenaway, Charles Mitchell, Francis Mitchell, Tracy Paunceford, William Hamond, Ferdinando Holland; and for the interest the proprietors of West Jersey have in East Jersey, Thomas Lane, Paul Dominique, Robert Mitchell, Joseph Brookshank, Edward Richier, and Michael Watts; sealed and delivered by the aforesaid persons in presence of us.

L. MORRIS,
JONATHAN GREENWOOD.

Sealed and delivered by William Dockwra, Peter Sonmans, Joseph Ormston, Thomas Barker, and Thomas Cooper, proprietors of East Jersey, in the presence of us.

RICHARD BOUTS,
NATHANIEL WELCH.

Sealed and delivered by Gilbert Molleson, in presence of us.

DANIEL WILD,
GILBERT FALCONER.

Sealed and delivered by Clement Plumstead, in presence of us.

JOHN ASKEW,
SAMUEL HANNINGTON.

Sealed and delivered by Henry Adderly, in presence of us.

JOHN BLACKALL,
THOMAS CAGE.

Sealed and delivered by Lewis Morris, in presence of us.

AUG. GRAHAM,
RICHARD BIBBY.

I do hereby certify, that this is a true copy from the books in the plantation office.

SAMUEL GILLIBRAND,
D. Secretary.

WHITEHALL, *January 17th*, 1752.

The Queen's acceptance of the surrender of government.

At the Court of St. James, the 17th day of April, 1702. Present:

The Queen's most excellent Majesty.

His Royal Highness, Prince George of Denmark.
Lord Keeper,
Lord Chamberlain,
Earl of Dorset,
Earl of Manchester,
Earl of Stamford,
Lord Godolphin,
Mr. Comptroller,
Mr. Vice Chamberlain,

Lord President,
Lord Steward,
Duke of Bolton,
Duke of Schonberg,
Duke of Leeds,
Lord Great Chamberlain,
Earl Marshall
Lord High Admiral,
Earl of Burlington,
Earl of Radnor,
Earl of Barkeley,
Earl of Rochester,
Earl of Marlborough,
Earl of Bradford,
Earl of Romney,
Earl of Renelagh,
Lord Ferrars,
Mr. Secretary Vernon,
Mr. Chancellor of the Exchequer.
Lord Chief Justice,
Mr. Chas. Hedges,
Mr. Smith.

This day the several proprietors of East and West New Jersey, in America, did in person present a deed of surrender, by them executed, under their hands and seals, to her Majesty in council, and did acknowledge the same to be their act and deed, and humbly desire her Majesty to accept the same, that it might be enrolled in the court of chancery, whereby they did surrender their power of the government of those plantations, which her Majesty graciously accepted, and was pleased to order, as it is hereby ordered, that the same be enrolled in her Majesty's said high court of chancery, whereby they did surrender their power of the government of these plantations, which her Majesty graciously accepted, and was pleased to order, as it is hereby ordered, that the same be enrolled in her Majesty's said high court of chancery; and the said instruments are to be delivered to Mr. Attorney General, who is to take care that the same be enrolled accordingly.

A true copy. W. SHARPE.

7th October, 1747.

Examined the foregoing copy, with the entry remaining in the register book, in the office of his Majesty's privy council at Whitehall, and found the same to contain a true copy.

JOHN WADDELL.

Deed.—Cornelius Van Vorst to Anthony Dey.

This indenture, made the twenty-sixth day of March, in the year of our Lord one thousand eight hundred and four, between Cornelius Van Vorst, of the township of Bergen, in the county of Bergen, and State of New Jersey, of the one part, and Anthony Dey, of the city of New York, attorney and counsellor at law, of the other part, witnesseth: That the said Cornelius Van Vorst, for and in consideration of the sum of one dollar, to him in hand paid by the said Anthony Dey, but more especially for and in consideration of the annuity of six thousand dollars agreed to be secured to the said Cornelius Van Vorst, his heirs, executors, administrators, and assigns, by a mortgage of the premises hereinafter mentioned, and to be paid yearly and every year in quarterly payments, to commence from and after the first day of May, in the year one thousand eight hundred and five, according to a certain agreement made by and between the said parties, bearing date the twenty-seventh day of February, one thousand eight hundred and four, reference being thereunto had will fully appear, except as to the boundaries of the premises, which have been altered and agreed to, as hereinafter particularly described, hath granted, bargained, and sold, aliened, released, enfeoffed, and conveyed, and by these presents doth grant, bargain, and sell, alien, release, enfeoff, and convey, unto the said Anthony Dey, his heirs and assigns, all that certain lot, or parcel of land and meadow, situate, lying, and being in the township of Bergen, county of Bergen, and State of New Jersey, commonly called Powle's Hook, bounded on the east by Hudson's river, on the north by said river, or the bay commonly called Horsimus bay, on the south by said river, or the bay commonly called Communipaw bay, and on the west by a line drawn from a stake standing on the west side of the small creek on the southwest side of the said tract, from which stake the flagstaff on Ellis's island bears south one degree twenty minutes east, and from which the chimney of the house of Stephen Vreeland, on Kaywan, bears south six degrees ten minutes west, and from which the steeple of the Bergen church bears north fifty degrees twenty-five minutes west, north twenty-six degrees thirty minutes east, to Horsimus bay aforesaid; together with all the right of ferry from the said tract or parcel of land across Hudson's river and elsewhere, and the right and title of the said Cornelius Van Vorst under the water of the Hudson river and the bays aforesaid, opposite the said premises, as far as his right to the same extends; and together with all and singular the buildings, rights, members, hereditaments, and appurtenances to the same belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, claim, and demand whatsoever, of the said Cornelius Van Vorst, of, in, and to the same, subject, however, to the incumbrance of a lease of the said premises made by the said Cornelius Van Vorst to David Hunt, which will expire on the said first day of May, in the year one thousand eight hundred and five, and the rent and reservations due, and to grow due, on which lease, are to be paid to, and received by, the said Cornelius Van Vorst, his heirs or assigns. To have and to hold all and singular the said land and premises, with the hereditaments and appurtenances aforesaid, subject to the said lease made to the said David Hunt as aforesaid, unto the said Anthony Dey, his heirs and assigns, to his and their only use and behoof forever.

And the said Cornelius Van Vorst doth hereby, for himself, his heirs, executors, and administrators and assigns, covenant and agree, to and with the said Anthony Dey, his heirs and assigns, as follows, to wit: That the said Cornelius Van Vorst now is lawfully and rightfully seized in his own right of a good, sure, and indefeasible estate of inheritance, in fee simple, of and in all and singular the said premises above granted and conveyed, and hath good right, full power, and lawful and absolute authority to grant, bargain and sell, alien, release, enfeoff and convey the said premises, with the hereditaments and appurtenances aforesaid, unto the said Anthony Dey, his heirs and assigns, and to his and their only use and behoof forever, in manner and form as is above written; and also that the said premises now are, and forever hereafter shall remain, free and clear, and discharged of and from all former gifts, grants, bargains, sales, mortgages, judgments, executions, and other encumbrances whatsoever heretofore had, made, done, or suffered, by or against the said Cornelius Van Vorst, under the original patent therefor. And also that the said Anthony Dey, his heirs and assigns, shall and may at all times hereafter, quietly and peaceably have, hold, occupy, possess, and enjoy, all and singular the said premises, with the appurtenances, without the lawful let, suit, molestation, or interruption of any person or persons lawfully claiming or to claim the same, by, from, or through him, the said Cornelius Van Vorst, or any other person or persons, by, from, or through whom he, the said Cornelius Van Vorst, hath derived, or now claims, title to the said premises; and also that the said Cornelius Van Vorst, his heirs and assigns, shall and will at any time hereafter, and at the reasonable request, and at the proper costs and charges of the said Anthony Dey, his heirs and assigns, make, do, and execute such further act or acts, deed or deeds, and conveyances in the law, for the more full and perfect assuring and conveying, in fee simple, all and singular the said premises, with the appurtenances, unto the said Anthony Dey, his heirs and assigns, or his or their counsel, learned in the law, shall reasonably advise or require: Provided, however, and it is hereby declared, that the encumbrance of the said lease to the said David Hunt is excepted out of the operation of the said covenants, and every of them. And it is further agreed and understood, between the parties to these presents, that no guarantee or covenant of insurance of title herein contained, shall be so construed as to extend to any guarantee or insurance of title to any land now usually covered with water, or to any guarantee of right of ferriage as a right independent of, or separate from, the soil on which the ferry is established.

In witness whereof the parties to these presents have hereunto interchangeably set their hands and seals, the day and year first above written.

CORNELIUS VAN VORST. [SEAL.]

Sealed and delivered in the presence of—

The word "but," in the third line, wrote on erasure, and the words "now usually," interlined before execution.

ALEXANDER C. McWHORTER,
DANIEL VAN RIPER,
DAVID HUNT,
ABM. HALSEY.

STATE OF NEW JERSEY,
Bergen county, ss.

Be it remembered that, on this twenty-sixth day of March, in the year of our Lord one thousand eight hundred and four, personally appeared before me, Daniel Van Riper, one of the judges of the inferior court of common pleas, in and for the county of Bergen, the within named Cornelius Van Vorst, the grantor within named, and the said Cornelius Van Vorst acknowledged that he signed, sealed, and delivered the within instrument or conveyance as his voluntary act and deed for the uses and purposes therein mentioned and expressed; and I, having examined the instrument or indenture, and finding no material erasures or interlineations, except such as are noted to have been made before the execution thereof, do allow the same to be recorded.

CORNELIUS VAN VORST.

Taken and acknowledged the day and year above written. Before me,

DANIEL VAN RIPER.

STATE OF NEW JERSEY,
Hudson county, ss.

I, Robert Gilchrist, clerk of Hudson county aforesaid, do certify the foregoing to be a true transcript from the record of a certain deed of conveyance by Cornelius Van Vorst to Anthony Day, and of the acknowledgment thereof, as the same are recorded in book A of deeds for the town of Jersey, on pages 14, 15, 16, and 17.

[L. S.] In witness whereof I have hereunto set my hand and affixed the seal of said county, this 11th day of July, A. D. 1848.

R. GILCHRIST, *Clerk.*

Richard Varick, Jacob Radcliff, and Anthony Dey, and their wives, to the Associates of the Jersey Company.

Book A of deeds, pages 74, and deed dated February 1st, 1805, and recorded August 5th, 1805.

This indenture, made the first day of February, in the year of our Lord one thousand eight hundred and five, between Richard Varick, of the city of New York, and Maria, his wife, Jacob Radcliff, of said city, and Julia, his wife, and Anthony Dey, of the said city, and Catharine, his wife, of the first part, and the Associates of the Jersey Company, of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of one dollar, to them in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, and in pursuance of the act of the legislature of the State of New Jersey, entitled "an act to incorporate the Associates of the Jersey Company," passed at Trenton, on the tenth day of November last past, have granted, bargained, and sold, aliened, released, conveyed, and confirmed, and by these presents do grant, bargain, and sell, alien, release, convey, and confirm, unto the said parties of the second part, in their actual possession now being, and to their successors and assigns forever, all that certain tract or parcel of land and meadow, which in a certain deed or conveyance thereof made by Cornelius Van Vorst, of the township of Bergen, in the county of Bergen, and State of New Jersey, to the said Anthony Dey, bearing date the twenty-sixth day of March, last past, is described as follows:

All that certain tract or parcel of land and meadow situate, lying, and being in the township of Bergen, county of Bergen, and State of New Jersey, commonly called Powles Hook, bounded on the east by Hudson's river; on the north by the said river, or the bay commonly called Horsimus bay; on the south by said river, or the bay commonly called Communipau bay; and on the west by a line drawn from a stake standing on the west side of the small creek, and on the southwest side of the said tract; from which stake the flag staff on Ellis's island bears south one degree twenty minutes east, and from which the chimney of the house of Stephen Vreeland, on Kuywan, bears south fifty-six degrees ten minutes west, and from which the steeple of the Bergen church bears north fifty degrees twenty-five minutes west, north twenty-six degrees thirty minutes east, to Horsimus bay aforesaid; together with the right of ferry from the said tract or parcel of land across Hudson's river and elsewhere, and the right and title of the said party of the first part under the water of the Hudson river and the bays aforesaid opposite the said premises, as far as their right to the same extends; and together with all and singular the buildings, rights, members, hereditaments, and appurtenances to the same belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, dower, property, claim, and demand whatsoever, of them, the said parties of the first part, and each of them, of, in, and to the same; subject, nevertheless, to the encumbrance of a certain indenture of mortgage made and executed by the said Anthony Dey and Catharine, his wife, to the said Cornelius Van Vorst, bearing date the said twenty-sixth day of March last past, for securing to the said Cornelius Van Vorst, his heirs and assigns forever, the payment of the annuity or annual sum of six thousand Spanish milled dollars annually, in quarter yearly payments, from and after the first day of May next; the first quarterly payment thereof, or sum of fifteen hundred Spanish milled silver dollars as aforesaid, to be made on the first day of August next, and the like sum quarter yearly thereafter, as, by reference to the said indenture of mortgage being had, may more fully appear. And subject also to a certain contract or agreement under seal, made and executed by and between the said Anthony Dey and Cornelius Van Vorst, bearing date the said twenty-sixth day of March last past, touching the said premises and the several other matters therein contained, which by reference being thereunto had may fully appear. And subject also to a certain other contract or agreement under seal, made and executed by and between the said Anthony Dey and David Hunt, bearing date the sixteenth day of April last past, touching the surrender of the lease of the said premises held by the said David Hunt and the several other matters therein contained, which by reference thereto had may also fully appear. And subject also to a lease of the said premises made by the said Cornelius Van Vorst to the said David Hunt, which will expire on the first day of May next, and the rents and reservations due and to grow due on which lease are to be paid to and received by the said Cornelius Van Vorst, his heirs or assigns. And subject, also, to the several contracts or agreements for the sale of several lots in the said tract as specified in the schedule hereunto annexed, marked A, and as heretofore made by the said parties of the first part with the several persons also named in the said schedule, and which contracts are assumed by the said parties of the second part; but the rents and reservations on which are hereby conveyed by the parties of the first part to the parties of the second part; to have and to hold all and singular the said lands and premises, with the hereditaments and appurtenances thereto belonging, subject to the encumbrance of the said indenture of mortgage, and of the said lease to the said David Hunt, and the several contracts or agreements made with the said Cornelius Van Vorst and David Hunt respectively, and to the said contracts or agreements for the sale of the said lots as aforesaid unto the said parties of the second part, their successors and assigns, to the only proper use and behoof of the said parties of the second part, their successors and assigns forever; and the said Richard Varick, Jacob Radcliff, and Anthony Dey, do hereby, for themselves respectively, and not the one for the other of them, and for their respective heirs, executors, administrators, and assigns, covenant and agree, to and with the said parties of the second part, their successors and assigns, that the said premises now are, and forever hereafter shall be and remain, free and clear of and from all former gifts, grants, mortgages, judgments, executions, or other encumbrances whatsoever, heretofore had, made, done, or suffered, by or against them, the said parties of the first part respectively, except as aforesaid; and also that the said parties of the first part have not done or suffered any act, matter, or thing, except as aforesaid, whereby the said premises, or the title thereof, can or may be in any way altered, impaired, or affected, either in law or equity; and also that they, the said parties of the first part, their heirs and assigns, shall and will, at all times hereafter, on the reasonable request, and at the proper costs and charges, of the said parties of the second part, their successors and assigns, make, do, and execute such further and other acts, deeds, and conveyances in the law, for the better and more perfect assuring and conveying the said premises, or any part thereof, unto the said parties of the second part, their successors and assigns, subject to the said indenture of mortgage and lease, and the contracts or agreements above mentioned, and the said parties of the second part, their successors or assigns, or their counsel learned in the law, shall reasonably advise or require.

In witness whereof the said parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

Sealed and delivered in the presence of—
JAMES KENT.

STATE OF NEW YORK, *ss.*

On the 15th day of May, 1805, before me came Richard Varick and Maria, his wife, Jacob Radcliff and Julia, his wife, and Anthony Dey and Catharine, his wife, and all personally known to me; and the said Richard, Jacob, and Anthony, severally acknowledged that they executed the within deed; and the said Maria, Julia, and Catharine, being by me severally examined, privately, apart from their husbands, acknowledged they executed the same freely, without any fear or compulsion of their husbands; and I, having examined the said deed, and finding no material erasures or interlineations, do allow it to be recorded.

JAMES KENT,
Chief justice of the Sup. Court.

To the foregoing instrument of writing the following schedule is annexed, as referred to in the said instrument, and attached to the same by tape and wax, viz:

A.

Schedule of the lots of ground contracted to be sold by Richard Varick, Jacob Radcliff, and Anthony Dey, in that part of the town of Jersey, commonly called Powles Hook.

1804.	Names of purchasers.	No. of lots and names of streets.	Consideration money.	Rent charge.
May 15.....	John B. Coles.........	34 and 36 Morris st..	450 dollars.	Each 12 dols.
16.....	Philip Ketellus.......	25 Morris street.....	230 "	12 "
16.....	James Abeel.........	48 Montgomery st...	200 "	12 "
June 8.....	Abm. Hurd..........	40 Morris st........	250 "	12 "
" 8.....	Joseph Lyon.........	42 Morris st........	250 "	12 "
" 14.....	Robert Allison & Jas. Morton...........	30 Montgomery st...	200 "	12 "

RICHARD VARICK,
JACOB RADCLIFF,
ANTHONY DEY.

Received in the office to be recorded the 5th day of August, A. D. 1805.
PHILIP WILLIAMS, *Clerk.*

STATE OF NEW JERSEY,
Hudson county, ss.

I, Robert Gilchrist, clerk of Hudson county aforesaid, do hereby certify the foregoing to be a true transcript from the record of a certain deed of conveyance from Richard Varick, Jacob Radcliff, and Anthony Dey, and their wives, to the Associates of the Jersey Company, dated February 1st, 1805, and of the acknowledgment thereof; and also of a schedule marked A, mentioned and referred to in said deed, as the same are recorded in my office, in book A of deeds for Jersey, pages 74, 75, &c.

In witness whereof I have hereunto set my hand and affixed the seal of said county, this 13th day of July, A. D. 1848.

[SEAL.]

R. GILCHRIST, *Clerk.*

Appendix No. 4, *on part of defendants.*

STATE OF NEW JERSEY.

An act to incorporate "the Associates of the Jersey Company."

Whereas it is represented to this legislature, that Richard Varick, Jacob Radcliff, and Anthony Dey, have become the proprietors, by purchase from Cornelius Van Vorst, of all that certain tract or parcel of land and meadow situate, lying, and being in the township of Bergen, county of Bergen, and State of New Jersey, commonly called Powles's Hook, bounded on the east by Hudson's river; on the north by said river, or the bay commonly called Horsimus bay; on the south by said river, or the bay commonly called Communipau bay; and on the west by a line drawn from a stake standing on the west side of the small creek on the southwest side of the said tract, (from which the flag-staff on Ellis's island bears south one degree twenty minutes east, and from which the chimney of the house of Stephen Vreeland, on Kaywan, bears south fifty-six degrees ten minutes west, and from which the steeple of the Bergen church bears north fifty degrees twenty-five minutes west,) north twenty-six degrees thirty minutes east to Horsimus bay aforesaid; together with the right of ferry from the said tract or parcel of land across Hudson's river and elsewhere, and the right and title of said Cornelius Van Vorst under the water of the Hudson river and the bays aforesaid, opposite the said premises, as far as the right of the said Cornelius Van Vorst extends. And whereas it is represented, that the said Richard Varick, Jacob Radcliff, and Anthony Dey have divided all the said premises into one thousand original shares, and have by certain articles of agreement associated and become associates in interest, with divers other persons in the said shares, and the said associates having presented a petition to the legislature, praying to be incorporated for the purposes hereinafter contained; and such prayer appearing reasonable—

§ 1. Be it therefore enacted by the council and general assembly of this State, and it is hereby enacted by the authority of the same, That the said Richard Varick, Jacob Radcliff, and Anthony Dey, and the said other persons interested with them in the said premises as aforesaid, shall be and hereby are constituted a body corporate, by the name and style of "the Associates of the Jersey Company," and by that name shall be known in law, and have power to sue and be sued, and to defend and be defended, in all courts of law and equity, and in all actions and matters whatsoever, and may have a common seal, and renew and alter the same at their pleasure, and by the same name shall be and hereby

Corporate name.

State of New York, *ss.*

On the 15th day of May, 1805, before me came Richard Varick and Maria, his wife, Jacob Radcliff and Julia, his wife, and Anthony Dey and Catharine, his wife, and all personally known to me; and the said Richard, Jacob, and Anthony, severally acknowledged that they executed the within deed; and the said Maria, Julia, and Catharine, being by me severally examined, privately, apart from their husbands, acknowledged they executed the same freely, without any fear or compulsion of their husbands; and I, having examined the said deed, and finding no material erasures or interlineations, do allow it to be recorded.

JAMES KENT,
Chief justice of the Sup. Court.

To the foregoing instrument of writing the following schedule is annexed, as referred to in the said instrument, and attached to the same by tape and wax, viz:

A.

Schedule of the lots of ground contracted to be sold by Richard Varick, Jacob Radcliff, and Anthony Dey, in that part of the town of Jersey, commonly called Powles Hook.

1804.	Names of purchasers.	No. of lots and names of streets.	Consideration money.	Rent charge.
May 15.....	John B. Coles.........	34 and 36 Morris st..	450 dollars.	Each 12 dols.
16.....	Philip Ketellus.......	25 Morris street.....	230 "	12 "
16.....	James Abeel..........	48 Montgomery st...	200 "	12 "
June 8.....	Abm. Hurd...........	40 Morris st........	250 "	12 "
" 8.....	Joseph Lyon.........	42 Morris st........	250 "	12 "
" 14.....	Robert Allison & Jas. Morton............	30 Montgomery st...	200 "	12 "

RICHARD VARICK,
JACOB RADCLIFF,
ANTHONY DEY.

Received in the office to be recorded the 5th day of August, A. D. 1805.
PHILIP WILLIAMS, *Clerk.*

State of New Jersey,
Hudson county, ss.

I, Robert Gilchrist, clerk of Hudson county aforesaid, do hereby certify the foregoing to be a true transcript from the record of a certain deed of conveyance from Richard Varick, Jacob Radcliff, and Anthony Dey, and their wives, to the Associates of the Jersey Company, dated February 1st, 1805, and of the acknowledgment thereof; and also of a schedule marked A, mentioned and referred to in said deed, as the same are recorded in my office, in book A of deeds for Jersey, pages 74, 75, &c.

In witness whereof I have hereunto set my hand and affixed the seal of said county, this 13th day of July, A. D. 1848.

[SEAL.]

R. GILCHRIST, *Clerk.*

Appendix No. 4, on part of defendants.

State of New Jersey.

An act to incorporate "the Associates of the Jersey Company."

Whereas it is represented to this legislature, that Richard Varick, Jacob Radcliff, and Anthony Dey, have become the proprietors, by purchase from Cornelius Van Vorst, of all that certain tract or parcel of land and meadow situate, lying, and being in the township of Bergen, county of Bergen, and State of New Jersey, commonly called Powles's Hook, bounded on the east by Hudson's river; on the north by said river, or the bay commonly called Horsimus bay; on the south by said river, or the bay commonly called Communipau bay; and on the west by a line drawn from a stake standing on the west side of the small creek on the southwest side of the said tract, (from which the flag-staff on Ellis's island bears south one degree twenty minutes east, and from which the chimney of the house of Stephen Vreeland, on Kaywan, bears south fifty-six degrees ten minutes west, and from which the steeple of the Bergen church bears north fifty degrees twenty-five minutes west,) north twenty-six degrees thirty minutes east to Horsimus bay aforesaid; together with the right of ferry from the said tract or parcel of land across Hudson's river and elsewhere, and the right and title of said Cornelius Van Vorst under the water of the Hudson river and the bays aforesaid, opposite the said premises, as far as the right of the said Cornelius Van Vorst extends. And whereas it is represented, that the said Richard Varick, Jacob Radcliff, and Anthony Dey have divided all the said premises into one thousand original shares, and have by certain articles of agreement associated and become associates in interest, with divers other persons in the said shares, and the said associates having presented a petition to the legislature, praying to be incorporated for the purposes hereinafter contained; and such prayer appearing reasonable—

§ 1. Be it therefore enacted by the council and general assembly of this State, and it is hereby enacted by the authority of the same, That the said Richard Varick, Jacob Radcliff, and Anthony Dey, and the said other persons interested with them in the said premises as aforesaid, shall be and hereby are constituted a body corporate, by the name and style of "the Associates of the Jersey Company," and by that name shall be known in law, and have power to sue and be sued, and to defend and be defended, in all courts of law and equity, and in all actions and matters whatsoever, and may have a common seal, and renew and alter the same at their pleasure, and by the same name shall be and hereby

Corporate name.

General powers.

are, made capable in law to have, hold, purchase, and enjoy, to them and their successors, lands, tenements, and hereditaments, goods, chattels and effects, of what nature or kind soever; and the same to grant, demise, alien, or dispose of at pleasure for the benefit of the said associates and their legal representatives, in proportion to their respective shares as aforesaid: Provided, That the lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall only be the said tract and premises herein before described, with the privileges and appurtenances aforesaid, and such as shall have been bona fide mortgaged to the said corporation by way of security, or conveyed to it by way of satisfaction for debts previously contracted, or purchased at sales upon judgments which shall have been obtained for such debts.

Hold real estate.

To lay out streets.

§ 2. Be it further enacted, That the said associates and their successors shall have power to make and lay out all streets and squares upon all and every part of the said premises, and to establish such as have already been laid out, and from time to time to regulate the same, and to direct and govern the levelling, pitching, and constructing of the said streets, and the raising and levelling of all lots and grounds for buildings, as well public as private; and to order and regulate the building of all docks, piers, and wharves, and all storehouses and buildings thereon; and generally to make such by-laws, orders, and regulations, touching all and singular the said matters not inconsistent with the Constitution and laws of this State and of the United States, as to them shall appear proper and necessary, and to enforce the same by any penalty or penalties which they may prescribe or direct, for any breach or offence against the same not exceeding twenty-five dollars for any one offence, to be sued for and recovered in any court of this State having cognizance thereof in the name of the said corporation, and for the use and benefit of the said company: Provided, That the powers granted by this section shall cease whenever the legislature shall deem it expedient to institute a more adequate and complete corporation for the purposes above expressed.

To regulate the building of docks, &c.

Make by-laws.

Proviso.

Build docks, &c.

§ 3. And be it further enacted, That the said associates shall have the privilege of erecting or building any docks, wharves, and piers opposite to and adjoining the said premises in Hudson river and the bays thereof, as far as they may deem it necessary for the improvement of the said premises or the benefit of commerce, and to appropriate the same to their own use.

And whereas it is represented that the legal title of all and singular the said premises is now vested in the said Richard Varick, Jacob Radcliff, and Anthony Dey, in trust for themselves and the said other persons associated with them as aforesaid, and it is represented to the legislature that the purchase of the same from the said Cornelius Van Vorst could not be effected on any other terms than by securing to the said Cornelius Van Vorst, his heirs and assigns, an annuity of six thousand dollars by a mortgage of the said premises, payable in quarter yearly payments from and after the first day of May next; and that the said Cornelius Van Vorst will not consent to any other security for the same, nor accept a principal sum adequate to the annual product thereof, but hath lately, for himself, his heirs and assigns, covenanted to accept from the purchasers of lots in the said tract, their heirs and assigns, the ground rents charged on the same by the said associates, towards the payment of the said annuity upon certain terms and conditions agreed upon by him and them, and that on payment of the same to him, his heirs and assigns, such lots shall be discharged from any further responsibility on account of the said annuity.

And whereas, it is represented that the said associates have proceeded to make valuable improvements on the said premises, and are desirous to sell and dispose of a part of the same for the purpose of further settling and improving the same, and to provide, by means of such ground rents, an ample fund for the payment of the said annuity and the security of purchasers, and to vest the whole of the said premises in the said corporation:

And whereas the settlement and improvement so made and intended to be made, promise to be of essential advantage to the commercial interests of this State:

§ 4. Be it therefore further enacted, That it shall be lawful for the said Richard Varick, Jacob Radcliff, and Anthony Dey, their heirs and assigns, to grant and convey all and singular the said premises, with the privileges and appurtenances thereto belonging, to the said corporation and their successors and assigns, in trust for the said associates; and that the said corporation and their successors shall, in convenient and reasonable time, proceed to sell and dispose of so many of the lots laid out, or to be laid out, on the said premises, charging each lot so sold with a reasonable and annual rent, less than its annual value, as shall produce in the aggregate, by means of the rents so reserved, a sufficient fund for the annual payment of the said annuity, or such part thereof as shall remain due and unextinguish; and that such fund, or such part thereof as shall be necessary for that purpose, shall, in the first instance, be applied yearly and every year to the payment of the said annuity, or so much thereof as shall be due and unextinguished; and that the surplus of such rents in each year only, if there be any, shall be divided among

Shall sell lots.

Reserve annual rent.

Pay annuity.

the said associates, or their legal representatives, until the said annuity shall be released or extinguished; and in case the same shall at any time be released or extinguished in part, that then a rateable proportion, and if released or extinguished in the whole, then the whole of the said fund arising or to arise from the said rents shall be divided or otherwise disposed of among the said associates or their legal representatives, as a majority in interest shall direct, in proportion to the number of the said shares held by them respectively.

Contracts assumed by associates.

§ 5. And be it further enacted, That all contracts heretofore made for the sale of any of the said lots by the said Richard Varick, Jacob Radcliff, and Anthony Dey, or in any way concerning the premises, or the improvement of the same, shall be assumed and performed by the said corporation.

Election.

§ 6. And be it further enacted, That the said associates and their successors shall and may, on the second Monday of December next, and on the first Monday of November in every year thereafter, elect nine of their number to be the trustees of the said company, who, or a majority of whom, shall have power to manage and conduct the affairs of the said corporation by the name and style herein above mentioned, and to sell and dispose of the said premises in manner aforesaid, and to exercise all the powers granted to the said corporation by this act under the regulations and restrictions herein contained, and to make rules and regulations for the government of their own board, and the time and mode of transacting business therein, and to appoint all necessary officers and agents for the purposes intended by this act; and that the first election of such trustees be held at Powles's hook aforesaid, under the direction of Wm. S. Pennington, Silas Condit, and Alexander C. M'Whorter, or a majority of them, as the inspectors of such election; and every subsequent election under the direction of three inspectors, or any two of them, to be appointed by the existing trustees for that purpose, who shall give notice in one or more of the public newspapers printed in this State, and one or more of the public newspapers printed in the city of New York at least thirty days previous to every such election, of the day and place of such election, and the hours during which the same will be held; at which election the said associates shall elect the said trustees by ballot; and that each associate may vote at such election in person or by proxy, and shall be entitled to one vote for each share he shall hold in the said company; and the trustees so elected shall enter upon their offices on the first Monday thereafter in each year, or as soon after as they can conveniently be sworn into office, and shall continue in office for one year from and after the time last

Appoint officers.

Thirty days notice of election.

Election by ballot.

mentioned, and until others shall be elected and sworn in their stead; and the persons above named for the purpose of conducting the said first election, and the inspectors to be appointed as aforesaid for every subsequent election, shall respectively be the judges of such elections; and a decision of them, or a majority of them, respectively, shall be conclusive as to the right of suffrage of any elector who shall offer himself to vote in his own right or by proxy at such election; and the said inspectors, or a majority of them, respectively, shall determine and certify the persons who, by a plurality of votes, shall be elected trustees as aforesaid, which certificate shall entitle every person, so certified to be elected, to be qualified, and to act as a trustee for the succeeding year; and each inspector, before he enters upon the execution of his duty as such, shall take an oath or affimation, as the case may be, that he will well and truly, and according to the best of his knowledge, execute the duty of an inspector of such election, which oath or affirmation the said inspectors are hereby authorized and empowered to administer to each other respectively.

Inspectors certify persons elected trustees.

Take oath.

§ 7. And be it further enacted, That the trustees so to be elected shall, before they enter upon their respective offices, severally take and subscribe an oath or affirmation, as the case may be, well and faithfully to execute the trusts reposed in them by this act according to the best of their skill and understanding, which oath or affirmation may be made before any judge of the supreme court, or of any inferior court, or before any justice of the peace within this State, who are hereby severally authorized and required to administer the same; and in case of the death, resignation, or refusal to act of any person so elected, it shall be lawful for the remaining trustees, by a majority of votes, to appoint another in his stead.

Trustees to take oath.

In case of death, &c., trustees appoint.

§ 8. And be it further enacted, That the clerk of the county of Bergen shall appoint a deputy, who shall be sworn as such, and reside and keep an office at some place within the district of country formerly distinguished by the name of the Island of Horsimus, and which includes Powles's Hook, and which island is constituted and surrounded by a certain creek called the Creek of Woods or Horsimus creek, and shall keep a proper book or books for the recording of all deeds, mortgages, and other writings which may hereafter be made or executed relating to any real estate situated within the said district or any part thereof; and all deeds, mortgages, and other writings relating to any such real estate, being proved or acknowledged as the same are required to be proved or acknowledged by the laws of this State, for the purpose of

Deputy clerk.

Record deeds, &c,

recording or registering the same, and being recorded or registered in the said book or books, shall be as valid and effectual in the law as if the same were recorded or registered in the clerk's office of the said county of Bergen; and it shall be the duty of such deputy so to record or register the same; and the said clerk of the said county shall be responsible for the conduct of every such deputy to be appointed by him, and be entitled to the like fees as in other cases for the like services: Provided, always, That no deed, mortgage, or other instrument in writing, respecting and containing land not situated within the district aforesaid, shall be recorded in the office hereby established.

Fees.

Proviso.

§ 9. And be it further enacted, That the said shares of the said associates in the said premises shall be deemed and construed to be personal estate, and shall be transferrable by them, their executors, administrators, or assigns; and the said trustees may prescribe the mode in which such transfers shall be made in a book or books to be provided for that purpose; and the said associates shall be liable to contribute in proportion to their respective shares to the fulfilment of all the contracts, and to all the charges and expenses already made or incurred on account of the said premises, since the purchase of the same, as aforesaid, from the said Cornelius Van Vorst; and upon every transfer of any share or shares hereafter to be made, the subsequent holder of the same shall in like manner be liable to contribute for the same to all charges and expenses which shall accrue on account of the said premises during the time he shall hold such share or shares only, and also to the payment of the said annuity during such time and no longer; and such share or shares shall be liable for the payment of such contributions, and on failure thereof, for the space of six months after a demand made of such payment, shall be forfeited to the said company: Provided, however, that the said trustees shall not make or incur any further expenditures on account of the said premises without the consent of a majority of the holders of the said shares in interest.

Shares personal estate.

Trustees contribute to fulfilment of contracts, &c.

Proviso.

§ 10. And be it further enacted, That all sales at auction to be made at Powles's Hook, and the said Island of Horsimus, shall be free from any duty to be imposed by this State for the period of fourteen years from the passing of this act.

Sales at auction, free of duty, &c.

COUNCIL CHAMBER, November 10th, 1804.

This re-engrossed bill having been read and compared—
Resolved, That the same do pass.

By order of council,

JOSEPH BLOOMFIELD, *President.*

2146.

House of Assembly, *November* 10, 1804.

This re-engrossed bill having been read and compared—

Resolved, That the same do pass.

By order of the House,

JAMES COX, *Speaker*.

I, John Beatty, secretary of the State of New Jersey, do certify, that the foregoing is a true copy, taken from the original act remaining on file in the secretary's office for the said State. Given under my hand at the city of Trenton, this 13th day of November, in the year of our Lord eighteen hundred and four. JOHN BEATTY.

Bond.

Supreme Court of the United States.

Archibald Russell
vs.
The Associates of the Jersey Company. } In error.

Know all men by these presents, that we, Archibald Russell, of the State of New York, and —— are held and firmly bound unto the above named the Associates of the Jersey Company in the sum of two hundred dollars, to be paid to the said the Associates of the Jersey Company, their successors or assigns. To which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by the present. Sealed with our seals, and dated this twenty-second day of November, in the year one thousand eight hundred and fifty-two.

Whereas the above named Archibald Russell hath prosecuted a writ of error to the Supreme Court of the United States, to remove the judgment rendered in the above entitled suit, by the circuit court of the United States, third circuit, New Jersey district:

Now, therefore, the condition of this obligation is such, that if the above named Archibald Russell shall prosecute his said writ of error to effect, and answer all costs, if he shall fail to make good his plea, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue. ARCH'D RUSSELL, [seal.]
JOHN RUTHERFORD. [seal.]

Sealed and delivered in the presence of—

J. M. TALMAGE.

Assignment of errors.

United States Supreme Court.

John Den, ex dem. Archibald Russell,
vs.
The Associates of the Jersey Company. }

In error of the term of December, in the year one thousand eight hundred and forty-nine.

Afterwards, to wit, on the first Monday of December, one thousand